

1993 FEB -2 PM 2:45
HOUSE OF REPRESENTATIVES

I certify that the attached is a true and
correct copy of HR# 4, which
was filed of record on 11-8-82
and referred to the committee on:

Betty Murray
Chief Clerk of the House

By *Bob Burke*

J.R. No. *4*

A JOINT RESOLUTION

1 proposing a constitutional amendment relating to the State
2 Commission on Judicial Conduct and the authority and procedure to
3 discipline active judges, certain retired and former judges, and
4 certain masters and magistrates of the courts.

5 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. That Article V, Section 1-a, Subsection (2), of
7 the Texas Constitution be amended to read as follows:

8 (2) The name of the State Judicial Qualifications Commission
9 is changed to the State Commission on Judicial Conduct. The
10 Commission consists of nine (9) members, [~~eleven-(11)-members~~] to
11 wit: (i) one (1) Justice [~~two-(2)-Justices~~] of a Court [~~Courts~~] of
12 [~~Civil~~] Appeals; (ii) one (1) District Judge; [~~two--(2)--District~~
13 ~~Judges~~] (iii) two (2) members of the State Bar, who have
14 respectively practiced as such for over ten (10) consecutive years
15 next preceding their selection; (iiii) three (3) citizens, [~~four~~
16 ~~(4)-citizens~~] at least thirty (30) years of age, not licensed to
17 practice law nor holding any salaried public office or employment;
18 [~~and~~] (v) one (1) Justice of the Peace; and (vi) one (1) Judge of a
19 Municipal Court; provided that no person shall be or remain a
20 member of the Commission, who does not maintain physical residence
21 within this State, or who resides in, or holds a judgeship within
22 or for, the same Supreme Judicial District as another member of the
23 Commission, or who shall have ceased to retain the qualifications
24 above specified for his respective class of membership, except that

1 the Justice of the Peace and the Judge of a Municipal Court shall
2 be selected at large without regard to whether they reside or hold
3 ~~[he-resides-or-holds]~~ a judgeship in the same Supreme Judicial
4 District as another member of the Commission. Commissioners of
5 classes (i) and (ii) above shall be chosen by the Supreme Court
6 with advice and consent of the Senate, those of class (iii) by the
7 Board of Directors of the State Bar under regulations to be
8 prescribed by the Supreme Court with advice and consent of the
9 Senate, those of class (iiii) by appointment of the Governor with
10 advice and consent of the Senate, ~~[and]~~ the commissioner of class
11 (v) by appointment of the Supreme Court from a list of five (5)
12 names submitted by the executive committee of the Justice of the
13 Peace and Constables Association of Texas, with the advice and
14 consent of the Senate, and the commissioner of class (vi) by
15 appointment of the Supreme Court from a list of five (5) names
16 submitted by the board of directors of the Municipal Judges Section
17 of the State Bar and the Texas Municipal Court Association, with
18 the advice and consent of the Senate. ~~[The--initial--term--of--the~~
19 ~~commissioner--of--class--(v)--and--the-fourth-commissioner-of-class~~
20 ~~(iiii)--added-by-this-amendment-terminates--on--November--19,--1979-~~
21 ~~Each--person--holding--office--as-a-member-of-the-Commission-on-the~~
22 ~~effective-date-of-this-amendment-continues-to-hold-the--office--for~~
23 ~~the-term-for-which-he-was-appointed-]~~

24 SECTION 2. That Article V, Section 1-a, Subsection (6), of
25 the Texas Constitution be amended by amending Paragraph A and
26 adding Paragraph C to read as follows:

27 (6)A. Any Justice or Judge of the courts established by this

1 Constitution or [~~Appellate--Courts--and--District--and--Criminal~~
2 ~~District-Courts,-and-any-County-Judge,-and-any-Judge--of--a--County~~
3 ~~Court--at--Law,-a-Court-of-Domestic-Relations,-a-Juvenile-Court,-a~~
4 ~~Probate-Court,-or-a-Corporation-or-Municipal-Court,-and-any-Justice~~
5 ~~of-the-Peace,-and-any-Judge-or-presiding--officer--of--any--special~~
6 ~~court]~~ created by the Legislature as provided in Section 1, Article
7 V, of this Constitution, may, subject to the other provisions
8 hereof, be removed from office for incompetence in performing the
9 duties of the office, willful violation of the Code of Judicial
10 Conduct, or willful or persistent conduct that [~~7--which~~] is clearly
11 inconsistent with the proper performance of his [~~said~~] duties or
12 casts public discredit upon the judiciary or administration of
13 justice; or any person holding such office may be disciplined or
14 censured, in lieu of removal from office, as [~~under-procedures~~]
15 provided [~~for~~] by this section [~~the--Legislature~~]. Any person
16 holding an office specified [~~named~~] in this subsection may be
17 suspended from office with or without pay by the Commission
18 immediately on being indicted by a State or Federal grand jury for
19 a felony offense; or, on the filing of a sworn complaint charging a
20 person holding such office with incompetence in performing the
21 duties of the office, willful violation of the Code of Judicial
22 Conduct, or willful and persistent conduct that [~~which~~] is clearly
23 inconsistent with the proper performance of his duties or [~~which~~]
24 casts public discredit on the judiciary or on the administration of
25 justice, the Commission, after giving the person notice and an
26 opportunity to appear before the Commission, may recommend to the
27 Supreme Court the suspension of such person from office. The

1 Supreme Court, after considering the record of such appearance and
2 the recommendation of the Commission, may suspend the person from
3 office with or without pay, pending final disposition of the
4 charge. A master or magistrate appointed as provided by law to
5 serve a trial court of this state in matters referred to the master
6 or magistrate by the judge of the court may, subject to the other
7 provisions hereof, be removed as master or magistrate for
8 incompetence in performing his duties or willful or persistent
9 conduct that is clearly inconsistent with the proper performance of
10 his duties or casts public discredit upon the judiciary or
11 administration of justice; or the master or magistrate may be
12 disciplined or censured in lieu of removal.

13 C. The law relating to a reprimand or censure of an active
14 Justice or Judge for incompetence in performing the duties of
15 office, willful violation of the Code of Judicial Conduct, or
16 willful and persistent conduct that is clearly inconsistent with
17 the proper performance of his duties or casts public discredit on
18 the judiciary or on the administration of justice applies to a
19 retired or former Judge who continues as a judicial officer subject
20 to an assignment to sit on a court of this State. Under the law
21 relating to the removal of an active Justice or Judge, the
22 Commission and the review tribunal may prohibit a retired or former
23 Judge from holding judicial office in the future or from sitting on
24 a court of this State by assignment.

25 SECTION 3. That Article V, Section 1-a, Subsections (8)
26 through (12), of the Texas Constitution be amended to read as
27 follows:

1 (8) After such investigation as it deems necessary, the
2 Commission may in its discretion issue a private or public
3 admonition, warning, reprimand, or requirement that the person
4 obtain additional training or education, or if the Commission
5 determines that the situation merits such action, it may institute
6 formal proceedings and order a formal hearing to be held before it
7 concerning the public censure, removal, or retirement of a person
8 holding an office or position specified [named] in Paragraph A of
9 Subsection (6) of this Section, or it may in its discretion request
10 the Supreme Court to appoint an active or retired District Judge or
11 Justice of a Court of [Civil] Appeals, or retired Judge or Justice
12 of the Court of Criminal Appeals or the Supreme Court, as a Master
13 to hear and take evidence in any such matter, and to report thereon
14 to the Commission. The Master shall have all the power of a
15 District Judge in the enforcement of orders pertaining to
16 witnesses, evidence, and procedure. If, after formal hearing, or
17 after considering the record and report of a Master, the Commission
18 finds good cause therefor, it shall issue an order of public
19 censure or it shall recommend to a review tribunal [~~the--Supreme~~
20 ~~Court~~] the removal[?] or retirement, as the case may be, of the
21 person in question holding an office or position specified [named]
22 in Paragraph A of Subsection (6) of this Section and shall
23 thereupon file with the tribunal [~~Clerk-of-the-Supreme--Court~~] the
24 entire record before the Commission.

25 (9) A tribunal to review the Commission's recommendation for
26 the removal or retirement of a Justice or Judge or the removal of a
27 master or magistrate is composed of seven (7) Justices or Judges of

1 the appellate courts who are selected by lot as provided by law.
2 Each appellate court shall designate one of its members for
3 inclusion in the list from which the selection is made. The review
4 tribunal [~~Supreme-Court~~] shall review the record of the proceedings
5 on the law and facts and in its discretion may, for good cause
6 shown, permit the introduction of additional evidence. Within 90
7 days after the date on which the record is filed with the review
8 tribunal, it [~~and~~] shall order public censure, retirement or
9 removal, as it finds just and proper, or wholly reject the
10 recommendation. A Justice, Judge, master, or magistrate may appeal
11 a decision of the review tribunal to the Supreme Court under the
12 substantial evidence rule. Upon an order for involuntary
13 retirement for disability or an order for removal, the office in
14 question shall become vacant. The review tribunal [~~Supreme-Court~~],
15 in an order for involuntary retirement for disability or an order
16 for removal, may prohibit such person from holding judicial office
17 in the future. The rights of an incumbent so retired to retirement
18 benefits shall be the same as if his retirement had been voluntary.

19 (10) All papers filed with and proceedings before the
20 Commission or a Master shall be confidential, unless otherwise
21 provided by law, and the filing of papers with, and the giving of
22 testimony before, the Commission, Master, review tribunal, or the
23 Supreme Court shall be privileged, unless otherwise provided by
24 law; provided that upon being filed with a review tribunal [~~in--the~~
25 ~~Supreme---Court~~] the record loses its confidential character.
26 However, the Commission may issue a public statement through its
27 executive director or its Chairman at any time during any of its

1 proceedings under this Section when sources other than the
2 Commission cause notoriety concerning a Judge or the Commission
3 itself and the Commission determines that the best interests of a
4 Judge or of the public will be served by issuing the statement.

5 (11) The Supreme Court shall by rule provide for the
6 procedure before the Commission, Masters, review tribunal, and the
7 Supreme Court. Such rule shall provide the right of discovery of
8 evidence to a Justice, Judge, master, or magistrate after formal
9 proceedings are instituted and shall afford to any person holding
10 an office or position specified [named] in Paragraph A of
11 Subsection (6) of this Section, against whom a proceeding is
12 instituted to cause his retirement or removal, due process of law
13 for the procedure before the Commission, Masters, review tribunal,
14 and the Supreme Court in the same manner that any person whose
15 property rights are in jeopardy in an adjudicatory proceeding is
16 entitled to due process of law, regardless of whether or not the
17 interest of the person holding an office or position specified
18 [named] in Paragraph A of Subsection (6) of this Section in
19 remaining in active status is considered to be a right or a
20 privilege. Due process shall include the right to notice, counsel,
21 hearing, confrontation of his accusers, and all such other
22 incidents of due process as are ordinarily available in proceedings
23 whether or not misfeasance is charged, upon proof of which a
24 penalty may be imposed.

25 (12) No person holding an office specified [named] in
26 Paragraph A of Subsection (6) of this Section shall sit as a member
27 of the Commission in any proceeding involving his own suspension,

1 discipline, censure, retirement or removal. A recommendation of
2 the Commission for the suspension[~~7--censure,--retirement,--or~~
3 ~~removal~~] of a Justice of the Supreme Court shall be determined by a
4 tribunal of seven (7) Court of [~~Civil~~] Appeals Justices selected by
5 lot to serve in place of the Supreme Court.

6 SECTION 4. That the following temporary provision be added
7 to the Texas Constitution:

8 TEMPORARY PROVISION. (a) This temporary provision applies
9 to the constitutional amendment proposed by H.J.R. No. _____, 68th
10 Legislature, Regular Session, 1983, and expires January 1, 1988.

11 (b) The constitutional amendment takes effect January 1,
12 1985.

13 (c) The initial terms of the commissioner of class (v) and
14 the fourth commissioner of class (iiii) added by amendment in 1977
15 expired on November 19, 1979. The initial term of the commissioner
16 of class (vi) expires on November 19, 1985.

17 (d) Each person holding office as a member of the Commission
18 on Judicial Conduct on January 1, 1985, continues to hold the
19 office for the term for which he was appointed.

20 (e) The office of the fourth commissioner of class (iiii)
21 added by amendment in 1977 is abolished on the expiration of his
22 term on November 19, 1985. The offices of the first commissioner
23 of class (i) and the first commissioner of class (ii) whose terms
24 expire after January 1, 1985, are abolished on the expiration of
25 the terms.

26 (f) Changes made in the constitution by this amendment do
27 not apply to investigations and formal proceedings where the

1 investigation of judicial conduct by the commission began before
2 January 1, 1985.

3 SECTION 5. This proposed constitutional amendment shall be
4 submitted to the voters at an election to be held November 6, 1984.
5 The ballot shall be printed to provide for voting for or against
6 the proposition: "The constitutional amendment relating to the
7 membership of the State Commission on Judicial Conduct and the
8 authority and procedure to discipline active judges, certain
9 retired and former judges, and certain masters and magistrates of
10 the courts."

By Bush

H.J.R. No. 4

Substitute the following for H.J.R. No. 4:

By Toomey

C.S.H.J.R. No. 4

A JOINT RESOLUTION

1 proposing a constitutional amendment relating to the State
2 Commission on Judicial Conduct and the authority and procedure to
3 discipline active judges, certain retired and former judges, and
4 certain masters and magistrates of the courts.

5 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. That Article V, Section 1-a, Subsection (2), of
7 the Texas Constitution be amended to read as follows:

8 (2) The name of the State Judicial Qualifications Commission
9 is changed to the State Commission on Judicial Conduct. The
10 Commission consists of eleven (11) members, to wit: (i) one (1)
11 Justice [~~two-(2)-Justices~~] of a Court [~~Courts~~] of [~~Civil~~] Appeals;
12 (ii) one (1) District Judge; [~~two-(2)-District-Judges~~]; (iii) two
13 (2) members of the State Bar, who have respectively practiced as
14 such for over ten (10) consecutive years next preceding their
15 selection; (iiii) four (4) citizens, at least thirty (30) years of
16 age, not licensed to practice law nor holding any salaried public
17 office or employment; [~~and~~] (v) one (1) Justice of the Peace; (vi)
18 one (1) Judge of a Municipal Court; and, (vii) one (1) Judge of a
19 County Court at Law; provided that no person shall be or remain a
20 member of the Commission, who does not maintain physical residence
21 within this State, or who resides in, or holds a judgeship within
22 or for, the same Supreme Judicial District as another member of the
23 Commission, or who shall have ceased to retain the qualifications
24 above specified for his respective class of membership, except that

1 the Justice of the Peace and the Judges of a Municipal Court and or
 2 a County Court at Law shall be selected at large without regard to
 3 whether they reside or hold [~~he resides or holds~~] a judgeship in
 4 the same Supreme Judicial District as another member of the
 5 Commission. Commissioners of classes (i), [and] (ii), and (vii)
 6 above shall be chosen by the Supreme Court with advice and consent
 7 of the Senate, those of class (iii) by the Board of Directors of
 8 the State Bar under regulations to be prescribed by the Supreme
 9 Court with advice and consent of the Senate, those of class (iiii)
 10 by appointment of the Governor with advice and consent of the
 11 Senate, [and] the commissioners [~~commissioner~~] of classes [~~class~~]
 12 (v) and (vi) by appointment of the Supreme Court as provided by
 13 law, with the advice and consent of the Senate. [~~from a list of~~
 14 ~~five (5) names submitted by the executive committee of the~~
 15 ~~Justice of the Peace and Constables Association of Texas, with the advice~~
 16 ~~and consent of the Senate. The initial term of the commissioner of~~
 17 ~~class (v) and the fourth commissioner of class (iiii) added by this~~
 18 ~~amendment terminates on November 19, 1979. Each person holding~~
 19 ~~office as a member of the Commission on the effective date of this~~
 20 ~~amendment continues to hold the office for the term for which he~~
 21 ~~was appointed.~~]

22 SECTION 2. That Article V, Section 1-a, Subsection (6), of
 23 the Texas Constitution be amended by amending Paragraph A and
 24 adding Paragraph C to read as follows:

25 (6)A. Any Justice or Judge of the courts established by this
 26 Constitution or [~~Appellate Courts and District and Criminal~~
 27 ~~District Courts, and any County Judge, and any Judge of a County~~

1 Court--at--Law,--a-Court-of-Domestic-Relations,--a-Juvenile-Court,--a
 2 Probate-Court,--or-a-Corporation-or-Municipal-Court,--and-any-Justice
 3 of-the-Peace,--and-any-Judge-or-presiding--officer--of--any--special
 4 court] created by the Legislature as provided in Section 1, Article
 5 V, of this Constitution, may, subject to the other provisions
 6 hereof, be removed from office for willful or persistent violation
 7 of rules promulgated by the Supreme Court of Texas, incompetence in
 8 performing the duties of the office, willful violation of the Code
 9 of Judicial Conduct, or willful or persistent conduct that[~~which~~]
 10 is clearly inconsistent with the proper performance of his [said]
 11 duties or casts public discredit upon the judiciary or
 12 administration of justice.[~~or~~] Any [any] person holding such
 13 office may be disciplined or censured, in lieu of removal from
 14 office, as [~~under-procedures~~] provided [~~for~~] by this section [~~the~~
 15 Legislature]. Any person holding an office specified [~~named~~] in
 16 this subsection may be suspended from office with or without pay by
 17 the Commission immediately on being indicted by a State or Federal
 18 grand jury for a felony offense[~~or~~] or charged with a
 19 misdemeanor involving official misconduct. On [~~on~~] the filing of a
 20 sworn complaint charging a person holding such office with willful
 21 or persistent violation of rules promulgated by the Supreme Court
 22 of Texas, incompetence in performing the duties of the office,
 23 willful violation of the Code of Judicial Conduct, or willful and
 24 persistent conduct that [~~which~~] is clearly inconsistent with the
 25 proper performance of his duties or [~~which~~] casts public discredit
 26 on the judiciary or on the administration of justice, the
 27 Commission, after giving the person notice and an opportunity to

1 appear and be heard before the Commission, may recommend to the
2 Supreme Court the suspension of such person from office. The
3 Supreme Court, after considering the record of such appearance and
4 the recommendation of the Commission, may suspend the person from
5 office with or without pay, pending final disposition of the
6 charge.

7 C. The law relating to the removal, discipline, suspension,
8 or censure of a Justice or Judge of the courts established by this
9 Constitution or created by the Legislature as provided in this
10 Constitution applies to a master or magistrate appointed as
11 provided by law to serve a trial court of this State and to a
12 retired or former Judge who continues as a judicial officer subject
13 to an assignment to sit on a court of this State. Under the law
14 relating to the removal of an active Justice or Judge, the
15 Commission and the review tribunal may prohibit a retired or former
16 Judge from holding judicial office in the future or from sitting on
17 a court of this State by assignment.

18 SECTION 3. That Article V, Section 1-a, Subsections (8)
19 through (12), of the Texas Constitution be amended to read as
20 follows:

21 (8) After such investigation as it deems necessary, the
22 Commission may in its discretion issue a private or public
23 admonition, warning, reprimand, or requirement that the person
24 obtain additional training or education, or if the Commission
25 determines that the situation merits such action, it may institute
26 formal proceedings and order a formal hearing to be held before it
27 concerning the public censure, removal, or retirement of a person

1 holding an office or position specified ~~[named]~~ in ~~[Paragraph-A-ef]~~
 2 Subsection (6) of this Section, or it may in its discretion request
 3 the Supreme Court to appoint an active or retired District Judge or
 4 Justice of a Court of ~~[Civil]~~ Appeals, or retired Judge or Justice
 5 of the Court of Criminal Appeals or the Supreme Court, as a Master
 6 to hear and take evidence in any such matter, and to report thereon
 7 to the Commission. The Master shall have all the power of a
 8 District Judge in the enforcement of orders pertaining to
 9 witnesses, evidence, and procedure. If, after formal hearing, or
 10 after considering the record and report of a Master, the Commission
 11 finds good cause therefor, it shall issue an order of public
 12 censure or it shall recommend to a review tribunal ~~[the-Supreme~~
 13 ~~Court]~~ the removal~~[7]~~ or retirement, as the case may be, of the
 14 person in question holding an office or position specified ~~[named]~~
 15 in ~~[Paragraph-A-ef]~~ Subsection (6) of this Section and shall
 16 thereupon file with the tribunal ~~[Clerk-of-the-Supreme-Court]~~ the
 17 entire record before the Commission.

18 (9) A tribunal to review the Commission's recommendation for
 19 the removal or retirement of a person holding an office or position
 20 specified in Subsection (6) of this Section is composed of seven
 21 (7) Justices or Judges of the Courts of Appeals who are selected by
 22 lot by the Chief Justice of the Supreme Court. Each Court of
 23 Appeals shall designate one of its members for inclusion in the
 24 list from which the selection is made. Service on the tribunal
 25 shall be considered part of the official duties of a judge, and no
 26 additional compensation may be paid for such service. The review
 27 tribunal ~~[Supreme-Court]~~ shall review the record of the proceedings

1 on the law and facts and in its discretion may, for good cause
2 shown, permit the introduction of additional evidence. Within 90
3 days after the date on which the record is filed with the review
4 tribunal, it [and] shall order public censure, retirement or
5 removal, as it finds just and proper, or wholly reject the
6 recommendation. A Justice, Judge, master, or magistrate may appeal
7 a decision of the review tribunal to the Supreme Court under the
8 substantial evidence rule. Upon an order for involuntary
9 retirement for disability or an order for removal, the office in
10 question shall become vacant. The review tribunal [~~Supreme-Court~~],
11 in an order for involuntary retirement for disability or an order
12 for removal, may prohibit such person from holding judicial office
13 in the future. The rights of an incumbent so retired to retirement
14 benefits shall be the same as if his retirement had been voluntary.

15 (10) All papers filed with and proceedings before the
16 Commission or a Master shall be confidential, unless otherwise
17 provided by law, and the filing of papers with, and the giving of
18 testimony before[7] the Commission[7] or a Master [~~or-the-Supreme~~
19 ~~Court~~] shall be privileged, unless otherwise provided by law[7
20 ~~provided--that--upon--being--filed--in-the-Supreme-Court-the-record~~
21 ~~loses-its-confidential-character~~]. However, the Commission may
22 issue a public statement through its executive director or its
23 Chairman at any time during any of its proceedings under this
24 Section when sources other than the Commission cause notoriety
25 concerning a Judge or the Commission itself and the Commission
26 determines that the best interests of a Judge or of the public will
27 be served by issuing the statement.

(11) The Supreme Court shall by rule provide for the procedure before the Commission, Masters, review tribunal, and the Supreme Court. Such rule shall provide the right of discovery of evidence to a Justice, Judge, master, or magistrate after formal proceedings are instituted and shall afford to any person holding an office or position specified [named] in [Paragraph--A--ef] Subsection (6) of this Section, against whom a proceeding is instituted to cause his retirement or removal, due process of law for the procedure before the Commission, Masters, review tribunal, and the Supreme Court in the same manner that any person whose property rights are in jeopardy in an adjudicatory proceeding is entitled to due process of law, regardless of whether or not the interest of the person holding an office or position specified [named] in [Paragraph-A-ef] Subsection (6) of this Section in remaining in active status is considered to be a right or a privilege. Due process shall include the right to notice, counsel, hearing, confrontation of his accusers, and all such other incidents of due process as are ordinarily available in proceedings whether or not misfeasance is charged, upon proof of which a penalty may be imposed.

(12) No person holding an office specified [named] in [Paragraph--A--ef] Subsection (6) of this Section shall sit as a member of the Commission in any proceeding involving his own suspension, discipline, censure, retirement or removal. [A recommendation-of--the--Commission--for--the--suspension,--censure, retirement,--or--removal-of-a-Justice-of-the-Supreme-Court-shall-be determined-by-a-tribunal--of--seven--(7)--Court--of--Civil--Appeals

1 ~~Justices--selected--by--lot--to--serve--in--place--of--the--Supreme--Court--]~~

2 SECTION 4. That Article V, Section 1-a of the Texas
3 Constitution be amended by adding Subsection (14) to read as
4 follows:

5 (14) The Legislature may promulgate laws in furtherance of
6 this Section that are not inconsistent with its provisions.

7 SECTION 5. That the following temporary provision be added
8 to the Texas Constitution:

9 TEMPORARY PROVISION. (a) This temporary provision applies
10 to the constitutional amendment proposed by H.J.R. No. 4, 68th
11 Legislature, Regular Session, 1983, and expires January 1, 1988.

12 (b) The constitutional amendment takes effect January 1,
13 1985.

14 (c) The initial term of the commissioner of class (v) added
15 by amendment in 1977 expired on November 19, 1979. The initial
16 term of the commissioner of class (vi) and (vii) expires on
17 November 19, 1985.

18 (d) Each person holding office as a member of the Commission
19 on Judicial Conduct on January 1, 1985, continues to hold the
20 office for the term for which he was appointed.

21 (e) The offices of the first commissioner of class (i) and
22 the first commissioner of class (ii) whose terms expire after
23 January 1, 1985, are abolished on the expiration of the terms.

24 (f) Changes made in the constitution by this amendment do
25 not apply to investigations and formal proceedings where the
26 investigation of judicial conduct by the commission began before
27 January 1, 1985.

1 SECTION 6. This proposed constitutional amendment shall be
2 submitted to the voters at an election to be held November 6, 1984.
3 The ballot shall be printed to provide for voting for or against
4 the proposition: "The constitutional amendment relating to the
5 membership of the State Commission on Judicial Conduct and the
6 authority and procedure to discipline active judges, certain
7 retired and former judges, and certain masters and magistrates of
8 the courts."

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 7, 1983

Honorable Bob Bush, Chair
Committee on Judiciary
House of Representatives
Austin, Texas

In Re: House Joint Resolution No. 4
By: Bush

Sir:

In response to your request for a Fiscal Note on House Joint Resolution No. 4 (proposing a constitutional amendment relating to the State Commission on Judicial Conduct and the authority and procedure to discipline active judges, certain retired and former judges, and certain masters and magistrates of the courts) this office has determined the following:

No significant fiscal implication to units of local government is anticipated.

The cost of publication of this resolution is \$59,050.


Jim Oliver
Director

Source: LBB Staff: JO, JH, LG, LV

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 22, 1983

Honorable Bob Bush, Chair
Committee on Judiciary
House of Representatives
Austin, Texas

In Re: Committee Substitute for
House Joint Resolution No. 4

Sir:

In response to your request for a Fiscal Note on the Committee Substitute for House Joint Resolution No. 4 (proposing a constitutional amendment relating to the State Commission on Judicial Conduct and the authority and procedure to discipline active judges, certain retired and former judges, and certain masters and magistrates of the courts) this office has determined the following:

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Jim Oliver
Director

Source: LBB Staff: JO, JH, LG, BL

1983 MAR 23 PM 6:13
HOUSE OF REPRESENTATIVES

HOUSE COMMITTEE REPORT

1st Printing

By Bush

H.J.R. No. 4

Substitute the following for H.J.R. No. 4:

By Toomey

C.S.H.J.R. No. 4

A JOINT RESOLUTION

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2 Commission on Judicial Conduct and the authority and procedure to
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7 the Texas Constitution be amended to read as follows:

8 (2) The name of the State Judicial Qualifications Commission
9 is changed to the State Commission on Judicial Conduct. The
10 Commission consists of eleven (11) members, to wit: (i) one (1)
11 Justice [~~two-(2)-Justices~~] of a Court [~~Courts~~] of [~~Civil~~] Appeals;
12 (ii) one (1) District Judge; [~~two-(2)-District-Judges,~~] (iii) two
13 (2) members of the State Bar, who have respectively practiced as
14 such for over ten (10) consecutive years next preceding their
15 selection; (iiii) four (4) citizens, at least thirty (30) years of
16 age, not licensed to practice law nor holding any salaried public
17 office or employment; [~~and~~] (v) one (1) Justice of the Peace; (vi)
18 one (1) Judge of a Municipal Court; and, (vii) one (1) Judge of a
19 County Court at Law; provided that no person shall be or remain a
20 member of the Commission, who does not maintain physical residence
21 within this State, or who resides in, or holds a judgeship within
22 or for, the same Supreme Judicial District as another member of the
23 Commission, or who shall have ceased to retain the qualifications
24 above specified for his respective class of membership, except that

1 the Justice of the Peace and the Judges of a Municipal Court and or
 2 a County Court at Law shall be selected at large without regard to
 3 whether they reside or hold [~~he-resides-or-holds~~] a judgeship in
 4 the same Supreme Judicial District as another member of the
 5 Commission. Commissioners of classes (i), [~~and~~] (ii), and (vii)
 6 above shall be chosen by the Supreme Court with advice and consent
 7 of the Senate, those of class (iii) by the Board of Directors of
 8 the State Bar under regulations to be prescribed by the Supreme
 9 Court with advice and consent of the Senate, those of class (iiii)
 10 by appointment of the Governor with advice and consent of the
 11 Senate, [~~and~~] the commissioners [~~commissioner~~] of classes [~~class~~]
 12 (v) and (vi) by appointment of the Supreme Court as provided by
 13 law, with the advice and consent of the Senate. [~~from-a-list-of~~
 14 ~~five-(5)-names-submitted-by-the-executive-committee-of-the--Justice~~
 15 ~~of--the--Peace-and-Constables-Association-of-Texas,-with-the-advice~~
 16 ~~and-consent-of-the-Senate--The-initial-term-of-the-commissioner-of~~
 17 ~~class-(v)-and-the-fourth-commissioner-of-class-(iiii)-added-by-this~~
 18 ~~amendment-terminates-on-November-19--1979----Each--person--holding~~
 19 ~~office--as-a-member-of-the-Commission-on-the-effective-date-of-this~~
 20 ~~amendment-continues-to-hold-the-office-for-the-term--for--which--he~~
 21 ~~was-appointed-]~~

22 SECTION 2. That Article V, Section 1-a, Subsection (6), of
 23 the Texas Constitution be amended by amending Paragraph A and
 24 adding Paragraph C to read as follows:

25 (6)A. Any Justice or Judge of the courts established by this
 26 Constitution or [~~Appellate--Courts--and--District--and--Criminal~~
 27 ~~District-Courts,-and-any-County-Judge,-and-any-Judge--of--a--County~~

~~Court--at--Law,--a-Court-of-Domestic-Relations,--a-Juvenile-Court,--a~~
~~Probate-Court,--or-a-Corporation-or-Municipal-Court,--and-any-Justice~~
~~of-the-Peace,--and-any-Judge-or-presiding--officer--of--any--special~~
~~court]~~ created by the Legislature as provided in Section 1, Article
V, of this Constitution, may, subject to the other provisions
hereof, be removed from office for willful or persistent violation
of rules promulgated by the Supreme Court of Texas, incompetence in
performing the duties of the office, willful violation of the Code
of Judicial Conduct, or willful or persistent conduct that~~[,--which]~~
is clearly inconsistent with the proper performance of his ~~[said]~~
duties or casts public discredit upon the judiciary or
administration of justice.~~[,--or]~~ Any ~~[any]~~ person holding such
office may be disciplined or censured, in lieu of removal from
office, as ~~[under-procedures]~~ provided ~~[for]~~ by this section ~~[the~~
~~Legislature]~~. Any person holding an office specified ~~[named]~~ in
this subsection may be suspended from office with or without pay by
the Commission immediately on being indicted by a State or Federal
grand jury for a felony offense~~[,--or]~~ or charged with a
misdemeanor involving official misconduct. On ~~[on]~~ the filing of a
sworn complaint charging a person holding such office with willful
or persistent violation of rules promulgated by the Supreme Court
of Texas, incompetence in performing the duties of the office,
willful violation of the Code of Judicial Conduct, or willful and
persistent conduct that ~~[which]~~ is clearly inconsistent with the
proper performance of his duties or ~~[which]~~ casts public discredit
on the judiciary or on the administration of justice, the
Commission, after giving the person notice and an opportunity to

1 appear and be heard before the Commission, may recommend to the
2 Supreme Court the suspension of such person from office. The
3 Supreme Court, after considering the record of such appearance and
4 the recommendation of the Commission, may suspend the person from
5 office with or without pay, pending final disposition of the
6 charge.

7 C. The law relating to the removal, discipline, suspension,
8 or censure of a Justice or Judge of the courts established by this
9 Constitution or created by the Legislature as provided in this
10 Constitution applies to a master or magistrate appointed as
11 provided by law to serve a trial court of this State and to a
12 retired or former Judge who continues as a judicial officer subject
13 to an assignment to sit on a court of this State. Under the law
14 relating to the removal of an active Justice or Judge, the
15 Commission and the review tribunal may prohibit a retired or former
16 Judge from holding judicial office in the future or from sitting on
17 a court of this State by assignment.

18 SECTION 3. That Article V, Section 1-a, Subsections (8)
19 through (12), of the Texas Constitution be amended to read as
20 follows:

21 (8) After such investigation as it deems necessary, the
22 Commission may in its discretion issue a private or public
23 admonition, warning, reprimand, or requirement that the person
24 obtain additional training or education, or if the Commission
25 determines that the situation merits such action, it may institute
26 formal proceedings and order a formal hearing to be held before it
27 concerning the public censure, removal, or retirement of a person

1 holding an office or position specified [named] in [Paragraph-A-of]
2 Subsection (6) of this Section, or it may in its discretion request
3 the Supreme Court to appoint an active or retired District Judge or
4 Justice of a Court of [Civil] Appeals, or retired Judge or Justice
5 of the Court of Criminal Appeals or the Supreme Court, as a Master
6 to hear and take evidence in any such matter, and to report thereon
7 to the Commission. The Master shall have all the power of a
8 District Judge in the enforcement of orders pertaining to
9 witnesses, evidence, and procedure. If, after formal hearing, or
10 after considering the record and report of a Master, the Commission
11 finds good cause therefor, it shall issue an order of public
12 censure or it shall recommend to a review tribunal [the-Supreme
13 Court] the removal[7] or retirement, as the case may be, of the
14 person in question holding an office or position specified [named]
15 in [Paragraph-A-of] Subsection (6) of this Section and shall
16 thereupon file with the tribunal [Clerk-of-the-Supreme-Court] the
17 entire record before the Commission.

18 (9) A tribunal to review the Commission's recommendation for
19 the removal or retirement of a person holding an office or position
20 specified in Subsection (6) of this Section is composed of seven
21 (7) Justices or Judges of the Courts of Appeals who are selected by
22 lot by the Chief Justice of the Supreme Court. Each Court of
23 Appeals shall designate one of its members for inclusion in the
24 list from which the selection is made. Service on the tribunal
25 shall be considered part of the official duties of a judge, and no
26 additional compensation may be paid for such service. The review
27 tribunal [Supreme-Court] shall review the record of the proceedings

1 on the law and facts and in its discretion may, for good cause
2 shown, permit the introduction of additional evidence. Within 90
3 days after the date on which the record is filed with the review
4 tribunal, it [and] shall order public censure, retirement or
5 removal, as it finds just and proper, or wholly reject the
6 recommendation. A Justice, Judge, master, or magistrate may appeal
7 a decision of the review tribunal to the Supreme Court under the
8 substantial evidence rule. Upon an order for involuntary
9 retirement for disability or an order for removal, the office in
10 question shall become vacant. The review tribunal [~~Supreme-Court~~],
11 in an order for involuntary retirement for disability or an order
12 for removal, may prohibit such person from holding judicial office
13 in the future. The rights of an incumbent so retired to retirement
14 benefits shall be the same as if his retirement had been voluntary.

15 (10) All papers filed with and proceedings before the
16 Commission or a Master shall be confidential, unless otherwise
17 provided by law, and the filing of papers with, and the giving of
18 testimony before[7] the Commission[7] or a Master [~~or-the-Supreme~~
19 ~~Court~~] shall be privileged, unless otherwise provided by law[7]
20 ~~provided--that--upon--being--filed--in-the-Supreme-Court-the-record~~
21 ~~loses-its-confidential-character~~]. However, the Commission may
22 issue a public statement through its executive director or its
23 Chairman at any time during any of its proceedings under this
24 Section when sources other than the Commission cause notoriety
25 concerning a Judge or the Commission itself and the Commission
26 determines that the best interests of a Judge or of the public will
27 be served by issuing the statement.

(11) The Supreme Court shall by rule provide for the procedure before the Commission, Masters, review tribunal, and the Supreme Court. Such rule shall provide the right of discovery of evidence to a Justice, Judge, master, or magistrate after formal proceedings are instituted and shall afford to any person holding an office or position specified [named] in [Paragraph--A--of] Subsection (6) of this Section, against whom a proceeding is instituted to cause his retirement or removal, due process of law for the procedure before the Commission, Masters, review tribunal, and the Supreme Court in the same manner that any person whose property rights are in jeopardy in an adjudicatory proceeding is entitled to due process of law, regardless of whether or not the interest of the person holding an office or position specified [named] in [Paragraph-A-of] Subsection (6) of this Section in remaining in active status is considered to be a right or a privilege. Due process shall include the right to notice, counsel, hearing, confrontation of his accusers, and all such other incidents of due process as are ordinarily available in proceedings whether or not misfeasance is charged, upon proof of which a penalty may be imposed.

(12) No person holding an office specified [named] in [Paragraph--A--of] Subsection (6) of this Section shall sit as a member of the Commission in any proceeding involving his own suspension, discipline, censure, retirement or removal. [A ~~recommendation-of--the--Commission--for--the--suspension,--censure, retirement,--or--removal-of-a-Justice-of-the-Supreme-Court-shall-be determined-by-a-tribunal--of--seven--(7)--Court--of--Civil--Appeals~~

1 ~~Justices--selected--by--lot--to--serve--in--place--of--the--Supreme--Court--]~~

2 SECTION 4. That Article V, Section 1-a of the Texas
3 Constitution be amended by adding Subsection (14) to read as
4 follows:

5 (14) The Legislature may promulgate laws in furtherance of
6 this Section that are not inconsistent with its provisions.

7 SECTION 5. That the following temporary provision be added
8 to the Texas Constitution:

9 TEMPORARY PROVISION. (a) This temporary provision applies
10 to the constitutional amendment proposed by H.J.R. No. 4, 68th
11 Legislature, Regular Session, 1983, and expires January 1, 1988.

12 (b) The constitutional amendment takes effect January 1,
13 1985.

14 (c) The initial term of the commissioner of class (v) added
15 by amendment in 1977 expired on November 19, 1979. The initial
16 term of the commissioner of class (vi) and (vii) expires on
17 November 19, 1985.

18 (d) Each person holding office as a member of the Commission
19 on Judicial Conduct on January 1, 1985, continues to hold the
20 office for the term for which he was appointed.

21 (e) The offices of the first commissioner of class (i) and
22 the first commissioner of class (ii) whose terms expire after
23 January 1, 1985, are abolished on the expiration of the terms.

24 (f) Changes made in the constitution by this amendment do
25 not apply to investigations and formal proceedings where the
26 investigation of judicial conduct by the commission began before
27 January 1, 1985.

1 SECTION 6. This proposed constitutional amendment shall be
2 submitted to the voters at an election to be held November 6, 1984.
3 The ballot shall be printed to provide for voting for or against
4 the proposition: "The constitutional amendment relating to the
5 membership of the State Commission on Judicial Conduct and the
6 authority and procedure to discipline active judges, certain
7 retired and former judges, and certain masters and magistrates of
8 the courts."

COMMITTEE REPORT

The Honorable Gib Lewis
Speaker of the House of Representatives

March 16, 1983
(date)

Sir:

We, your COMMITTEE ON JUDICIARY, to whom was referred H.J.R. 4 have had the same under consideration and beg to report back with the recommendation that it (measure)

- () do pass, without amendment.
- () do pass, with amendment(s).
- (X) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested. (X)yes () no

An author's fiscal statement was requested. () yes (X)no

An actuarial analysis was requested. () yes (X)no

The Committee recommends that this measure be placed on the (Local) or (Consent) Calendar.

This measure (X)proposes new law.
(X)amends existing law.

House Sponsor of Senate Measure _____

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Bush, Ch.	✓			
Khoury, V.C.				✓
Garcia, M., C.B.O.				✓
Armbrister	✓			
Cavazos	✓			
Kemp	✓			
Martinez, R.				✓
Toomey	✓			
Wilson				✓

Total
5 aye
0 nay
0 present, not voting
4 absent

Bel Bink
CHAIRMAN
Repvold
COMMITTEE COORDINATOR

BILL ANALYSIS

Background Information:

Currently, the State Constitution sets the number of members of the Judicial Conduct Commission at eleven, to include two district judges, two justices of the Courts of Appeals, two attorneys, four laypersons, and one justice of the peace. The Commission has the constitutional authority to discipline those judges who have engaged in willful or persist conduct that "is clearly inconsistent with the proper performance of duties, or which casts public discredit upon the judiciary". This authority does not extend to masters, magistrates, or retired or former judges who hear cases by designation.

After investigation of a complaint concerning a judge's conduct, the Commission may dismiss the complaint. If the Commission finds the charge to be founded, it may issue a private or public reprimand and end the matter, or institute formal proceedings. The formal proceedings resemble a full trial, with the presiding Master (appointed by the Supreme Court) enjoying all of the powers of a trial judge and the Commission acting the part of the prosecutor. The accused judge, however, has no right to discovery. After the trial, the Commission considers the Master's report, and either issues a public censure or recommends to the Supreme Court removal of the judge. At this stage the record loses its confidentiality, and is sent to the Supreme Court. The Supreme Court has total review power, thus it can hear new evidence, and "wholly reject" the Commission's recommendations.

The House Judiciary Committee recommended to the 68th Legislature that :

1. Judges be subject to discipline for willful violation of the Code of Judicial Conduct or for incompetence in performing the duties of office.
2. Retired and former judges and court masters and magistrates be included within the Commission's jurisdiction.
3. A review tribunal, composed of seven justices of the Courts of Appeals chosen by lot, review the Commission's recommendations for removal; and that an accused judge be allowed to appeal the tribunal's decision to the Supreme Court under the substantial evidence rule.
4. An accused judge be granted the right to discovery of evidence following the institution of formal charges.

The Select Committee on Judicial Selection also urged adoption of sections 1, 2 and 4, above, and further recommended that:

1. Appropriate lesser sanctions be authorized in the disciplining of judges, in addition to suspension, removal, and censure.

2. A Municipal court judge be added to the membership of the Commission.

Purpose:

C.S.H.J.R. 4 amends existing law and proposes new law to add a municipal and county court at law judge to the Judicial Conduct Commission, increase the jurisdiction and available sanctions of the Commission, expand types of conduct subject to disciplinary action, grant judges discovery rights following the institution of formal proceedings, and alter the method of review of Commission removal recommendations.

Section-by-Section Analysis:

Section 1. Amends Article V, Section 1-a, Subsection (2) of the Texas Constitution to remove one Court of Appeals justice and one District Court judge from the Commission and to add one Municipal Court judge and one County Court at Law judge to the Commission.

Section 2. Amends Article V, Section 1-a, Subsection (6) of the Texas Constitution to expand the list of types of conduct meriting disciplinary action, and to include retired or former judges sitting subject to assignment and masters or magistrates to the Commission's jurisdiction.

Section 3. Amends Article V, Section 1-a, Subsections (8) - (12) of the Texas Constitution. Subsection (8) amended to provide additional alternative sanctions for violations. Subsection (9) amended to substitute a review tribunal, composed of 7 Court of Appeals justices chosen by lot, to replace the Supreme Court in the initial review of removal recommendations by the Commission, and to allow further appeal to the Supreme Court under the substantial evidence rule. Subsection (10) amended to end confidentiality of testimony given before a review tribunal or the Supreme Court. Subsection (11) amended to provide discovery rights to judges. Subsection (12) amended to conform to other amendments.

Section 4. Amends Article V, Section 1-a of the Texas Constitution to add new Subsection (14) allowing the Legislature to promulgate laws in furtherance of Section 1-a.

Section 5. Temporary provisions to readjust the terms of the new members and to render the amendments applicable only to Commission activity begun after January 1, 1985.

Section 6. Amendment to be submitted to the voters on November 6, 1984.

Section 7. Emergency clause.

Rulemaking Authority:

This bill does not grant rulemaking authority to any state agency, department or officer.

Summary of Committee Action:

Public notice was posted in accordance with Rule 4, Section 12 of the Rules of Procedure of the House of Representatives and a public hearing was held on March 9, 1983.

The following witnesses appeared to testify in favor of H.J.R. 4:

Mr. Robert Flowers, Executive Director of the Commission on Judicial Conduct, representing the Commission on Judicial Conduct; and

Mr. Maurice Pipkin, Retired Executive Director of the Commission on Judicial Conduct, representing himself.

H.J.R. 4 was left as pending business before the full Judiciary Committee.

On March 16, 1983, the Chair laid out an amendment to H.J.R. 4. The Committee voted to adopt an amendment to the amendment to H.J.R. 4. The Committee voted to adopt the amendment to H.J.R. 4. The Committee then voted to adopt the amendment as a Committee Substitute for H.J.R. 4, and then voted to report H.J.R. 4, as substituted, favorably to the House with the recommendation that it do pass by a record vote of 5 ayes, no nays, and 4 absent.

Comparison of Original Bill to Substitute

Substantial differences between C.S.H.J.R. 4 and the original are:

1. The original reduced total Commission membership to 9. The substitute retains membership at 11 by adding a judge of a Municipal Court and a judge of a County Court at Law. Both the substitute and the original provide for removal of 1 District judge and 1 Court of Appeal justice from Commission membership.
2. The substitute adds "willful or persistent violation of rules promulgated by the Supreme Court of Texas" to the list of types of conduct subject to discipline, and allows discretionary suspension of judges charged with a misdemeanor involving official misconduct. The original did not include either provision.
3. The substitute designates that service on a review tribunal is an official duty of the judge and that no additional compensation is to be paid for the service. The original did not have such a provision.
4. The substitute deletes provisions in the original that provided for privileged testimony before a review tribunal, and also deletes provisions in present law providing for privileged testimony before the Supreme Court.
5. The substitute deletes language in present Subsection (12) to align procedure for removal of Supreme Court justices with procedure for removal of other judges. The original did not include such a deletion.
6. The substitute adds new Subsection (14), allowing Legislature to promulgate laws in furtherance of Article V, Section 1-a. The original did not include such a provision.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 22, 1983

Honorable Bob Bush, Chair
Committee on Judiciary
House of Representatives
Austin, Texas

In Re: Committee Substitute for
House Joint Resolution No. 4

Sir:

In response to your request for a Fiscal Note on the Committee Substitute for House Joint Resolution No. 4 (proposing a constitutional amendment relating to the State Commission on Judicial Conduct and the authority and procedure to discipline active judges, certain retired and former judges, and certain masters and magistrates of the courts) this office has determined the following:

No significant fiscal implication to units of local government is anticipated.

The cost of publication of this resolution is \$59,050.


Jim Oliver
Director

Source: LBB Staff: JO, JH, LG, BL

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 7, 1983

Honorable Bob Bush, Chair
Committee on Judiciary
House of Representatives
Austin, Texas

In Re: House Joint Resolution No. 4
By: Bush

Sir:

In response to your request for a Fiscal Note on House Joint Resolution No. 4 (proposing a constitutional amendment relating to the State Commission on Judicial Conduct and the authority and procedure to discipline active judges, certain retired and former judges, and certain masters and magistrates of the courts) this office has determined the following:

No significant fiscal implication to units of local government is anticipated.

The cost of publication of this resolution is \$59,050.


Jim Oliver
Director

Source: LBB Staff: JO, JH, LG, LV

ADOPTED

MAR 28 1983

Betty Murray
Chief Clerk
House of Representatives

By Bush

H.J.R. No. 4

Substitute the following for H.J.R. 4

By: Toomey

C.S.H.J.R. 4

A JOINT RESOLUTION

1 proposing a constitutional amendment relating to the State
2 Commission on Judicial Conduct and the authority and procedure to
3 discipline active judges, certain retired and former judges, and
4 certain masters and magistrates of the courts.

5 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. That Article V, Section 1-a, Subsection (2),
7 of the Texas Constitution be amended to read as follows:

8 (2) The name of the State Judicial Qualifications Commission
9 is changed to the State Commission on Judicial Conduct. The
10 Commission consists of eleven (11) members, to wit: (i) one
11 (1) Justice [two-(2)-Justices] of a Court [Courts] of [Civil]
12 Appeals; (ii) one (1) District Judge; [two-(2)-District-Judges,]
13 (iii) two (2) members of the State Bar, who have respectively
14 practiced as such for over ten (10) consecutive years next pre-
15 ceding their selection ; (iiii) four (4) citizens, at least thirty
16 (30) years of age, not licensed to practice law nor holding any
17 salaried public office or employment; [and] (v) one (1) Justice
18 of the Peace; (vi) one (1) Judge of a Municipal Court; and, (vii)
19 one (1) Judge of a County Court at Law; provided that no person
20 shall be or remain a member of the Commission, who does not main-
21 tain physical residence within this State, or who resides in, or
22 holds a judgeship within or for, the same Supreme Judicial District
23 as another member of the Commission, or who shall have ceased to
24 retain the qualifications above specified for his respective class

1 of membership, except that the Justice of the Peace and the Judges
2 of a Municipal Court and or a County Court at Law shall be selected
3 at large without regard to whether they reside or hold ~~he-resides~~
4 ~~er-holds~~ a judgeship in the same Supreme Judicial District as
5 another member of the Commission. Commissioners of classes (i),
6 ~~and~~ (ii), and (vii) above shall be chosen by the Supreme Court
7 with advice and consent of the Senate, those of class (iii) by
8 the Board of Directors of the State Bar under regulations to be
9 prescribed by the Supreme Court with advice and consent of the
10 Senate, those of class (iiii) by appointment of the Governor with
11 advice and consent of the Senate, ~~and~~ the commissioners ~~commissioner~~
12 of classes ~~class~~ (v) and (vi) by appointment of the Supreme Court
13 as provided by law, with the advice and consent of the Senate. ~~from~~
14 ~~a-list-of-five-(5)-names-submitted-by-the-executive-committee-of-the~~
15 ~~Justice-of-the-Peace-and-Constables-Association-of-Texas, with the advice~~
16 ~~and-consent-of-the-Senate.--The-initial-term-of-the-commissioner-of~~
17 ~~class-(v)-and-the-fourth-commissioner-of-class-(iiii)-added-by-this~~
18 ~~amendment-terminates-on-November-1979, 1979.--Each-person-holding-office~~
19 ~~as-a-member-of-the-Commission-on-the-effective-date-of-this-amendment~~
20 ~~continues-to-hold-the-office-for-the-term-for-which-he-was-appointed.]~~

21 SECTION 2. That Article V, Section 1-a, Subsection (6),
22 of the Texas Constitution be amended by amending Paragraph A and
23 adding Paragraph C to read as follows:

24 (6)A. Any Justice or Judge of the courts established by
25 this Constitution or ~~Appellate-Courts-and-District-and-Criminal~~
26 ~~District-Courts, and any County Judge, and any Judge of a County~~
27 ~~Court-at-Law, a Court-of-Domestic-Relations, a Juvenile Court, a~~

1 ~~Probate-Court,-or-a-Corporation-or-Municipal-Court,-and-any-Justice~~
2 ~~of-the-Peace,-and-any-Judge-or-presiding-officer-of-any-special~~
3 ~~court]~~ created by the Legislature as provided in Section 1, Article
4 V, of this Constitution, may, subject to the other provisions
5 hereof, be removed from office for willful or persistent violation
6 of rules promulgated by the Supreme Court of Texas, incompetence
7 in performing the duties of the office, willful violation of the
8 Code of Judicial Conduct, or willful or persistent conduct that
9 ~~[,-which]~~ is clearly inconsistent with the proper performance of
10 his ~~[said]~~ duties or casts public discredit upon the judiciary or
11 administration of justice. ~~[,-or]~~ Any ~~[any]~~ person holding such
12 office may be disciplined or censured, in lieu of removal from
13 office, as ~~[under-procedures]~~ provided ~~[for]~~ by this section
14 ~~[the-Legislature]~~. Any person holding an office specified ~~[named]~~
15 in this subsection may be suspended from office with or without
16 pay by the Commission immediately on being indicted by a State
17 or Federal grand jury for a felony offense ~~[,-or,-]~~ or charged with a
18 misdemeanor involving official misconduct. On ~~[en]~~ the filing of a sworn
19 complaint charging a person holding such office with willful or
20 persistent violation of rules promulgated by the Supreme Court
21 of Texas, incompetence in performing the duties of the office,
22 willful violation of the Code of Judicial Conduct, or willful
23 and persistent conduct that ~~[which]~~ is clearly inconsistent with
24 the proper performance of his duties or ~~[which]~~ casts public
25 discredit on the judiciary or on the administration of justice,
26 the Commission, after giving the person notice and an opportunity
27 to appear and be heard before the Commission, may recommend to the

1 Supreme Court the suspension of such person from office. The
2 Supreme Court, after considering the record of such appearance and
3 the recommendation of the Commission, may suspend the person from
4 office with or without pay, pending final disposition of the
5 charge.

6 C. The law relating to the removal, discipline, suspension,
7 or censure of a Justice or Judge of the courts established by this
8 Constitution or created by the Legislature as provided in this
9 Constitution applies to a master or magistrate appointed as provided
10 by law to serve a trial court of this State and to a retired or
11 former Judge who continues as a judicial officer subject to an
12 assignment to sit on a court of this State. Under the law relating
13 to the removal of an active Justice or Judge, the Commission and
14 the review tribunal may prohibit a retired or former Judge from
15 holding judicial office in the future or from sitting on a court
16 of this State by assignment.

17 SECTION 3. That Article V, Section 1-a, Subsections (8) through
18 (12), of the Texas Constitution be amended to read as follows:

19 (8) After such investigation as it deems necessary, the
20 Commission may in its discretion issue a private or public admonition,
21 warning, reprimand, or requirement that the person obtain additional
22 training or education, or if the Commission determines that the
23 situation merits such action, it may institute formal proceedings
24 and order a formal hearing to be held before it concerning the public
25 censure, removal, or retirement of a person holding an office or
26 position specified [named] in [Paragraph-A-of] Subsection (6) of
27 this Section, or it may in its discretion request the Supreme Court

1 to appoint an active or retired District Judge or Justice of a
2 Court of ~~【Civil】~~ Appeals, or retired Judge or Justice of the Court
3 of Criminal Appeals or the Supreme Court, as a Master to hear and
4 take evidence in any such matter, and to report thereon to the
5 Commission. The Master shall have all the power of a District
6 Judge in the enforcement of orders pertaining to witnesses,
7 evidence, and procedure. If, after formal hearing, or after
8 considering the record and report of a Master, the Commission
9 finds good cause therefor, it shall issue an order of public censure
10 or it shall recommend to a review tribunal ~~【the-Supreme-Court】~~
11 the removal ~~【7】~~ or retirement, as the case may be, of the person
12 in question holding an office or position specified ~~【named】~~ in
13 ~~【Paragraph-A-of】~~ Subsection (6) of this Section and shall thereupon
14 file with the tribunal ~~【Clerk-of-the-Supreme-Court】~~ the entire
15 record before the Commission.

16 (9) A tribunal to review the Commission's recommendation for
17 the removal or retirement of a person holding an office or posi-
18 tion specified in Subsection (6) of this Section is composed of
19 seven (7) Justices or Judges of the Courts of Appeals who are
20 selected by lot by the Chief Justice of the Supreme Court. Each
21 Court of Appeals shall designate one of its members for inclusion
22 in the list from which the selection is made. Service on the
23 tribunal shall be considered part of the official duties of a judge,
24 and no additional compensation may be paid for such service. The
25 review tribunal ~~【-Supreme-Court】~~ shall review the record of the
26 proceedings on the law and facts and in its discretion may, for good
27 cause shown, permit the introduction of additional evidence.

1 Within 90 days after the date on which the record is filed with
2 the review tribunal, it ~~and~~ shall order public censure, retirement
3 or removal, as it finds just and proper, or wholly reject the
4 recommendation. A Justice, Judge, master, or magistrate may
5 appeal a decision of the review tribunal to the Supreme Court under
6 the substantial evidence rule. Upon an order for involuntary
7 retirement for disability or an order for removal, the office in
8 question shall become vacant. The review tribunal ~~Supreme-Court~~,
9 in an order for involuntary retirement for disability or an order
10 for removal, may prohibit such person from holding judicial office
11 in the future. The rights of an incumbent so retired to retirement
12 benefits shall be the same as if his retirement had been voluntary.

13 (10) All papers filed with and proceedings before the
14 Commission or a Master shall be confidential, unless otherwise
15 provided by law, and the filing of papers with, and the giving of
16 testimony before~~7~~ the Commission~~7~~ or a Master ~~for-the-Supreme~~
17 ~~Court~~ shall be privileged, unless otherwise provided by law
18 ~~7-provided-that-upon-being-filed--in-the-Supreme-Court-the~~
19 ~~record-loses-its-confidential-character~~. However, the Commission
20 may issue a public statement through its executive director or
21 its Chairman at any time during any of its proceedings under this
22 Section when sources other than the Commission cause notoriety con-
23 cerning a Judge or the Commission itself and the Commission deter-
24 mines that the best interests of a Judge or of the public will be
25 served by issuing the statement.

26 (11) The Supreme Court shall by rule provide for the pro-
27 cedure before the Commission, Masters, review tribunal, and the

1 Supreme Court. Such rule shall provide the right of discovery of
2 evidence to a Justice, Judge, master, or magistrate after formal
3 proceedings are instituted and shall afford to any person holding
4 an office or position specified **[named]** in **[Paragraph-A-ef]**
5 Subsection (6) of this Section, against whom a proceeding is insti-
6 tuted to cause his retirement or removal, due process of law for
7 the procedure before the Commission, Masters, review tribunal,
8 and the Supreme Court in the same manner that any person whose
9 property rights are in jeopardy in an adjudicatory proceeding is
10 entitled to due process of law, regardless of whether or not the
11 interest of the person holding an office or position specified
12 **[named]** in **[Paragraph-A-ef]** Subsection (6) of this Section in
13 remaining in active status is considered to be a right or a
14 privilege. Due process shall include the right to notice, counsel,
15 hearing, confrontation of his accusers, and all such other
16 incidents of due process as are ordinarily available in proceedings
17 whether or not misfeasance is charged, upon proof of which a
18 penalty may be imposed.

19 (12) No person holding an office specified **[named]** in
20 **[Paragraph-A-ef]** Subsection (6) of this Section shall sit as a
21 member of the Commission in any proceeding involving his own
22 suspension, discipline, censure, retirement or removal. **[A**
23 ~~recommendation-of-the-Commission-for-the-suspension,-censure,~~
24 ~~retirement,-or-removal-of-a-Justice-of-the-Supreme-Court-shall~~
25 ~~be-determined-by-a-tribunal-of-seven-(7)-Court-of--Civil--Appeals~~
26 ~~Justices-selected-by-lot-to-serve-in-place-of-the-Supreme-Court-]~~

27 SECTION 4. That Article V, Section 1-a of the Texas Consti-

1 tution be amended by adding Subsection (14) to read as follows:

2 (14) The Legislature may promulgate laws in furtherance of
3 this Section that are not inconsistent with its provisions.

4 SECTION 5. That the following temporary provision be added
5 to the Texas Constitution:

6 TEMPORARY PROVISION. (a) This temporary provision applies
7 to the constitutional amendment proposed by H.J.R. No. 4, 68th
8 Legislature, Regular Session, 1983, and expires January 1, 1988.

9 (b) The constitutional amendment takes effect January 1,
10 1985.

11 (c) The initial term of the commissioner of class (v)
12 added by amendment in 1977 expired on November 19, 1979. The
13 initial term of the commissioners of class (vi) and (vii) expires
14 on November 19, 1985.

15 (d) Each person holding office as a member of the Commission
16 on Judicial Conduct on January 1, 1985, continues to hold the
17 office for the term for which he was appointed.

18 (e) The offices of the first commissioner of class (i)
19 and the first commissioner of class (ii) whose terms expire after
20 January 1, 1985, are abolished on the expiration of the terms.

21 (f) Changes made in the constitution by this amendment do
22 not apply to investigations and formal proceedings where the
23 investigation of judicial conduct by the commission began before
24 January 1, 1985.

25 SECTION 6. This proposed constitutional amendment shall be
26 submitted to the voters at an election to be held November 6, 1984.
27 The ballot shall be printed to provide for voting for or against

1 the proposition: "The constitutional amendment relating to the
2 membership of the State Commission on Judicial Conduct and the
3 authority and procedure to discipline active judges, certain
4 retired and former judges, and certain masters and magistrates
5 of the courts."

1903 MAR 29 AM 9:49
HOUSE OF REPRESENTATIVES

HOUSE ENGROSSMENT

By Bush

H.J.R. No. 4

A JOINT RESOLUTION

1 proposing a constitutional amendment relating to the State
2 Commission on Judicial Conduct and the authority and procedure to
3 discipline active judges, certain retired and former judges, and
4 certain masters and magistrates of the courts.

5 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. That Article V, Section 1-a, Subsection (2), of
7 the Texas Constitution be amended to read as follows:

8 (2) The name of the State Judicial Qualifications Commission
9 is changed to the State Commission on Judicial Conduct. The
10 Commission consists of eleven (11) members, to wit: (i) one (1)
11 Justice [~~two-(2)-Justices~~] of a Court [~~Courts~~] of [~~Civil~~] Appeals;
12 (ii) one (1) District Judge; [~~two-(2)-District-Judges;~~] (iii) two
13 (2) members of the State Bar, who have respectively practiced as
14 such for over ten (10) consecutive years next preceding their
15 selection; (iiii) four (4) citizens, at least thirty (30) years of
16 age, not licensed to practice law nor holding any salaried public
17 office or employment; [~~and~~] (v) one (1) Justice of the Peace; (vi)
18 one (1) Judge of a Municipal Court; and, (vii) one (1) Judge of a
19 County Court at Law; provided that no person shall be or remain a
20 member of the Commission, who does not maintain physical residence
21 within this State, or who resides in, or holds a judgeship within
22 or for, the same Supreme Judicial District as another member of the
23 Commission, or who shall have ceased to retain the qualifications
24 above specified for his respective class of membership, except that

1 the Justice of the Peace and the Judges of a Municipal Court and or
 2 a County Court at Law shall be selected at large without regard to
 3 whether they reside or hold [~~he resides or holds~~] a judgeship in
 4 the same Supreme Judicial District as another member of the
 5 Commission. Commissioners of classes (i), [~~and~~] (ii), and (vii)
 6 above shall be chosen by the Supreme Court with advice and consent
 7 of the Senate, those of class (iii) by the Board of Directors of
 8 the State Bar under regulations to be prescribed by the Supreme
 9 Court with advice and consent of the Senate, those of class (iiii)
 10 by appointment of the Governor with advice and consent of the
 11 Senate, [~~and~~] the commissioners [~~commissioner~~] of classes [~~class~~]
 12 (v) and (vi) by appointment of the Supreme Court as provided by
 13 law, with the advice and consent of the Senate. [~~from a list of~~
 14 ~~five-(5)-names-submitted-by-the-executive-committee-of-the--Justice~~
 15 ~~of--the--Peace-and-Constables-Association-of-Texas,--with-the-advice~~
 16 ~~and-consent-of-the-Senate.--The-initial-term-of-the-commissioner-of~~
 17 ~~class-(v)-and-the-fourth-commissioner-of-class-(iiii)-added-by-this~~
 18 ~~amendment-terminates-on-November-19,--1979.---Each--person--holding~~
 19 ~~office--as-a-member-of-the-Commission-on-the-effective-date-of-this~~
 20 ~~amendment-continues-to-hold-the-office-for-the-term--for--which--he~~
 21 ~~was-appointed.~~]

22 SECTION 2. That Article V, Section 1-a, Subsection (6), of
 23 the Texas Constitution be amended by amending Paragraph A and
 24 adding Paragraph C to read as follows:

25 (6)A. Any Justice or Judge of the courts established by this
 26 Constitution or [~~Appellate--Courts--and--District--and--Criminal~~
 27 ~~District-Courts,--and-any-County-Judge,--and-any-Judge--of--a--County~~

Court--at--Law,--a-Court-of-Domestic-Relations,--a-Juvenile-Court,--a
 Probate-Court,--or-a-Corporation-or-Municipal-Court,--and-any-Justice
 of-the-Peace,--and-any-Judge-or-presiding--officer--of--any--special
 court] created by the Legislature as provided in Section 1, Article
 V, of this Constitution, may, subject to the other provisions
 hereof, be removed from office for willful or persistent violation
of rules promulgated by the Supreme Court of Texas, incompetence in
performing the duties of the office, willful violation of the Code
of Judicial Conduct, or willful or persistent conduct that[,--which]
 is clearly inconsistent with the proper performance of his [said]
 duties or casts public discredit upon the judiciary or
 administration of justice.[,--or] Any [any] person holding such
 office may be disciplined or censured, in lieu of removal from
 office, as [under-procedures] provided [for] by this section [the
 Legislature]. Any person holding an office specified [named] in
 this subsection may be suspended from office with or without pay by
 the Commission immediately on being indicted by a State or Federal
 grand jury for a felony offense[,--or,] or charged with a
misdemeanor involving official misconduct. On [on] the filing of a
 sworn complaint charging a person holding such office with willful
or persistent violation of rules promulgated by the Supreme Court
of Texas, incompetence in performing the duties of the office,
willful violation of the Code of Judicial Conduct, or willful and
persistent conduct that [which] is clearly inconsistent with the
 proper performance of his duties or [which] casts public discredit
 on the judiciary or on the administration of justice, the
 Commission, after giving the person notice and an opportunity to

1 appear and be heard before the Commission, may recommend to the
2 Supreme Court the suspension of such person from office. The
3 Supreme Court, after considering the record of such appearance and
4 the recommendation of the Commission, may suspend the person from
5 office with or without pay, pending final disposition of the
6 charge.

7 C. The law relating to the removal, discipline, suspension,
8 or censure of a Justice or Judge of the courts established by this
9 Constitution or created by the Legislature as provided in this
10 Constitution applies to a master or magistrate appointed as
11 provided by law to serve a trial court of this State and to a
12 retired or former Judge who continues as a judicial officer subject
13 to an assignment to sit on a court of this State. Under the law
14 relating to the removal of an active Justice or Judge, the
15 Commission and the review tribunal may prohibit a retired or former
16 Judge from holding judicial office in the future or from sitting on
17 a court of this State by assignment.

18 SECTION 3. That Article V, Section 1-a, Subsections (8)
19 through (12), of the Texas Constitution be amended to read as
20 follows:

21 (8) After such investigation as it deems necessary, the
22 Commission may in its discretion issue a private or public
23 admonition, warning, reprimand, or requirement that the person
24 obtain additional training or education, or if the Commission
25 determines that the situation merits such action, it may institute
26 formal proceedings and order a formal hearing to be held before it
27 concerning the public censure, removal, or retirement of a person

1 holding an office or position specified [named] in [Paragraph-A-ef]
2 Subsection (6) of this Section, or it may in its discretion request
3 the Supreme Court to appoint an active or retired District Judge or
4 Justice of a Court of [Civil] Appeals, or retired Judge or Justice
5 of the Court of Criminal Appeals or the Supreme Court, as a Master
6 to hear and take evidence in any such matter, and to report thereon
7 to the Commission. The Master shall have all the power of a
8 District Judge in the enforcement of orders pertaining to
9 witnesses, evidence, and procedure. If, after formal hearing, or
10 after considering the record and report of a Master, the Commission
11 finds good cause therefor, it shall issue an order of public
12 censure or it shall recommend to a review tribunal [~~the-Supreme~~
13 ~~Court~~] the removal[7] or retirement, as the case may be, of the
14 person in question holding an office or position specified [named]
15 in [Paragraph-A-ef] Subsection (6) of this Section and shall
16 thereupon file with the tribunal [~~Clerk-of-the-Supreme-Court~~] the
17 entire record before the Commission.

18 (9) A tribunal to review the Commission's recommendation for
19 the removal or retirement of a person holding an office or position
20 specified in Subsection (6) of this Section is composed of seven
21 (7) Justices or Judges of the Courts of Appeals who are selected by
22 lot by the Chief Justice of the Supreme Court. Each Court of
23 Appeals shall designate one of its members for inclusion in the
24 list from which the selection is made. Service on the tribunal
25 shall be considered part of the official duties of a judge, and no
26 additional compensation may be paid for such service. The review
27 tribunal [~~Supreme-Court~~] shall review the record of the proceedings

1 on the law and facts and in its discretion may, for good cause
2 shown, permit the introduction of additional evidence. Within 90
3 days after the date on which the record is filed with the review
4 tribunal, it [and] shall order public censure, retirement or
5 removal, as it finds just and proper, or wholly reject the
6 recommendation. A Justice, Judge, Master, or Magistrate may appeal
7 a decision of the review tribunal to the Supreme Court under the
8 substantial evidence rule. Upon an order for involuntary
9 retirement for disability or an order for removal, the office in
10 question shall become vacant. The review tribunal [Supreme-Court],
11 in an order for involuntary retirement for disability or an order
12 for removal, may prohibit such person from holding judicial office
13 in the future. The rights of an incumbent so retired to retirement
14 benefits shall be the same as if his retirement had been voluntary.

15 (10) All papers filed with and proceedings before the
16 Commission or a Master shall be confidential, unless otherwise
17 provided by law, and the filing of papers with, and the giving of
18 testimony before[7] the Commission or a[7] Master [er-the-Supreme
19 Court] shall be privileged, unless otherwise provided by law[7
20 provided--that--upon--being--filed--in-the-Supreme-Court-the-record
21 loses-its-confidential-character]. However, the Commission may
22 issue a public statement through its executive director or its
23 Chairman at any time during any of its proceedings under this
24 Section when sources other than the Commission cause notoriety
25 concerning a Judge or the Commission itself and the Commission
26 determines that the best interests of a Judge or of the public will
27 be served by issuing the statement.

(11) The Supreme Court shall by rule provide for the procedure before the Commission, Masters, review tribunal, and the Supreme Court. Such rule shall provide the right of discovery of evidence to a Justice, Judge, Master, or Magistrate after formal proceedings are instituted and shall afford to any person holding an office or position specified [named] in [Paragraph--A--ef] Subsection (6) of this Section, against whom a proceeding is instituted to cause his retirement or removal, due process of law for the procedure before the Commission, Masters, review tribunal, and the Supreme Court in the same manner that any person whose property rights are in jeopardy in an adjudicatory proceeding is entitled to due process of law, regardless of whether or not the interest of the person holding an office or position specified [named] in [Paragraph-A-ef] Subsection (6) of this Section in remaining in active status is considered to be a right or a privilege. Due process shall include the right to notice, counsel, hearing, confrontation of his accusers, and all such other incidents of due process as are ordinarily available in proceedings whether or not misfeasance is charged, upon proof of which a penalty may be imposed.

(12) No person holding an office specified [named] in [Paragraph--A--ef] Subsection (6) of this Section shall sit as a member of the Commission in any proceeding involving his own suspension, discipline, censure, retirement or removal. [A ~~recommendation-of--the--Commission--for--the--suspension,--censure, retirement,--or--removal-of-a-Justice-of-the-Supreme-Court-shall-be determined-by-a-tribunal--of--seven--(7)--Court--of--Civil--Appeals~~

1 ~~Justices--selected--by--let--to--serve--in--place--of--the--Supreme--Court--]~~

2 SECTION 4. That Article V, Section 1-a, of the Texas
3 Constitution be amended by adding Subsection (14) to read as
4 follows:

5 (14) The Legislature may promulgate laws in furtherance of
6 this Section that are not inconsistent with its provisions.

7 SECTION 5. That the following temporary provision be added
8 to the Texas Constitution:

9 TEMPORARY PROVISION. (a) This temporary provision applies
10 to the constitutional amendment proposed by H.J.R. No. 4, 68th
11 Legislature, Regular Session, 1983, and expires January 1, 1988.

12 (b) The constitutional amendment takes effect January 1,
13 1985.

14 (c) The initial term of the commissioner of class (v) added
15 by amendment in 1977 expired on November 19, 1979. The initial
16 term of the commissioner of class (vi) and (vii) expires on
17 November 19, 1985.

18 (d) Each person holding office as a member of the Commission
19 on Judicial Conduct on January 1, 1985, continues to hold the
20 office for the term for which he was appointed.

21 (e) The offices of the first commissioner of class (i) and
22 the first commissioner of class (ii) whose terms expire after
23 January 1, 1985, are abolished on the expiration of the terms.

24 (f) Changes made in the constitution by this amendment do
25 not apply to investigations and formal proceedings where the
26 investigation of judicial conduct by the commission began before
27 January 1, 1985.

1 SECTION 6. This proposed constitutional amendment shall be
2 submitted to the voters at an election to be held November 6, 1984.
3 The ballot shall be printed to provide for voting for or against
4 the proposition: "The constitutional amendment relating to the
5 membership of the State Commission on Judicial Conduct and the
6 authority and procedure to discipline active judges, certain
7 retired and former judges, and certain masters and magistrates of
8 the courts."

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 22, 1983

Honorable Bob Bush, Chair
Committee on Judiciary
House of Representatives
Austin, Texas

In Re: Committee Substitute for
House Joint Resolution No. 4

Sir:

In response to your request for a Fiscal Note on the Committee Substitute for House Joint Resolution No. 4 (proposing a constitutional amendment relating to the State Commission on Judicial Conduct and the authority and procedure to discipline active judges, certain retired and former judges, and certain masters and magistrates of the courts) this office has determined the following:

No significant fiscal implication to units of local government is anticipated.

The cost of publication of this resolution is \$59,050.


Jim Oliver
Director

Source: LBB Staff: JO, JH, LG, BL

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 7, 1983

Honorable Bob Bush, Chair
Committee on Judiciary
House of Representatives
Austin, Texas

In Re: House Joint Resolution No. 4
By: Bush

Sir:

In response to your request for a Fiscal Note on House Joint Resolution No. 4 (proposing a constitutional amendment relating to the State Commission on Judicial Conduct and the authority and procedure to discipline active judges, certain retired and former judges, and certain masters and magistrates of the courts) this office has determined the following:

No significant fiscal implication to units of local government is anticipated.

The cost of publication of this resolution is \$59,050.


Jim Oliver
Director

Source: LBB Staff: JO, JH, LG, LV

1 By: Bush (Senate Sponsor - Caperton) H.J.R. No. 4
2 (In the Senate - Received from the House March 29, 1983;
3 March 30, 1983, read first time and referred to Committee on
4 Jurisprudence; April 27, 1983, reported favorably; April 27, 1983,
5 sent to printer.)

6 A JOINT RESOLUTION

7 proposing a constitutional amendment relating to the State
8 Commission on Judicial Conduct and the authority and procedure to
9 discipline active judges, certain retired and former judges, and
10 certain masters and magistrates of the courts.

11 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

12 SECTION 1. That Article V, Section 1-a, Subsection (2), of
13 the Texas Constitution be amended to read as follows:

14 (2) The name of the State Judicial Qualifications Commission
15 is changed to the State Commission on Judicial Conduct. The
16 Commission consists of eleven (11) members, to wit: (i) one (1)
17 Justice [~~two-(2)-Justices~~] of a Court [~~Courts~~] of [~~Civil~~] Appeals;
18 (ii) one (1) District Judge; [~~two-(2)-District-Judges~~] (iii) two
19 (2) members of the State Bar, who have respectively practiced as
20 such for over ten (10) consecutive years next preceding their
21 selection; (iiii) four (4) citizens, at least thirty (30) years of
22 age, not licensed to practice law nor holding any salaried public
23 office or employment; [~~and~~] (v) one (1) Justice of the Peace; (vi)
24 one (1) Judge of a Municipal Court; and, (vii) one (1) Judge of a
25 County Court at Law; provided that no person shall be or remain a
26 member of the Commission, who does not maintain physical residence
27 within this State, or who resides in, or holds a judgeship within
28 or for, the same Supreme Judicial District as another member of the
29 Commission, or who shall have ceased to retain the qualifications
30 above specified for his respective class of membership, except that
31 the Justice of the Peace and the Judges of a Municipal Court and or
32 a County Court at Law shall be selected at large without regard to
33 whether they reside or hold [~~he-resides-or-holds~~] a judgeship in
34 the same Supreme Judicial District as another member of the
35 Commission. Commissioners of classes (i), [~~and~~] (ii), and (vii)
36 above shall be chosen by the Supreme Court with advice and consent
37 of the Senate, those of class (iii) by the Board of Directors of
38 the State Bar under regulations to be prescribed by the Supreme
39 Court with advice and consent of the Senate, those of class (iiii)
40 by appointment of the Governor with advice and consent of the
41 Senate, [~~and~~] the commissioners [~~commissioner~~] of classes [~~class~~]
42 (v) and (vi) by appointment of the Supreme Court as provided by
43 law, with the advice and consent of the Senate. [~~from--a--list--of~~
44 ~~five--(5)--names-submitted-by-the-executive-committee-of-the-Justice~~
45 ~~of-the-Peace-and-Constables-Association-of-Texas,-with--the--advice~~
46 ~~and-consent-of-the-Senate.--The-initial-term-of-the-commissioner-of~~
47 ~~class-(v)-and-the-fourth-commissioner-of-class-(iiii)-added-by-this~~
48 ~~amendment--terminates--on--November--19--1979.--Each-person-holding~~
49 ~~office-as-a-member-of-the-Commission-on-the-effective-date-of--this~~
50 ~~amendment--continues--to--hold-the-office-for-the-term-for-which-he~~
51 ~~was-appointed-]~~

52 SECTION 2. That Article V, Section 1-a, Subsection (6), of
53 the Texas Constitution be amended by amending Paragraph A and
54 adding Paragraph C to read as follows:

55 (6)A. Any Justice or Judge of the courts established by this
56 Constitution or [~~Appellate--Courts--and--District--and--Criminal~~
57 ~~District--Courts,--and--any-County-Judge,--and--any-Judge-of-a-County~~
58 ~~Court-at-Law,--a-Court-of-Domestic-Relations,--a--Juvenile--Court,--a~~
59 ~~Probate-Court,--or-a-Corporation-or-Municipal-Court,--and--any-Justice~~
60 ~~of--the--Peace,--and--any-Judge-or-presiding-officer-of-any-special~~
61 ~~court]~~ created by the Legislature as provided in Section 1, Article
62 V, of this Constitution, may, subject to the other provisions
63 hereof, be removed from office for willful or persistent violation
64 of rules promulgated by the Supreme Court of Texas, incompetence in
65 performing the duties of the office, willful violation of the Code
66 of Judicial Conduct, or willful or persistent conduct that[~~7--which~~]
67 is clearly inconsistent with the proper performance of his [~~said~~]
68 duties or casts public discredit upon the judiciary or
69 administration of justice.[~~7--or~~] Any [~~any~~] person holding such

office may be disciplined or censured, in lieu of removal from office, as [under-procedures] provided [for] by this section [the Legislature]. Any person holding an office specified [named] in this subsection may be suspended from office with or without pay by the Commission immediately on being indicted by a State or Federal grand jury for a felony offense~~[,--or,]~~ or charged with a misdemeanor involving official misconduct. On ~~[on]~~ the filing of a sworn complaint charging a person holding such office with willful or persistent violation of rules promulgated by the Supreme Court of Texas, incompetence in performing the duties of the office, willful violation of the Code of Judicial Conduct, or willful and persistent conduct that ~~[which]~~ is clearly inconsistent with the proper performance of his duties or ~~[which]~~ casts public discredit on the judiciary or on the administration of justice, the Commission, after giving the person notice and an opportunity to appear and be heard before the Commission, may recommend to the Supreme Court the suspension of such person from office. The Supreme Court, after considering the record of such appearance and the recommendation of the Commission, may suspend the person from office with or without pay, pending final disposition of the charge.

C. The law relating to the removal, discipline, suspension, or censure of a Justice or Judge of the courts established by this Constitution or created by the Legislature as provided in this Constitution applies to a master or magistrate appointed as provided by law to serve a trial court of this State and to a retired or former Judge who continues as a judicial officer subject to an assignment to sit on a court of this State. Under the law relating to the removal of an active Justice or Judge, the Commission and the review tribunal may prohibit a retired or former Judge from holding judicial office in the future or from sitting on a court of this State by assignment.

SECTION 3. That Article V, Section 1-a, Subsections (8) through (12), of the Texas Constitution be amended to read as follows:

(8) After such investigation as it deems necessary, the Commission may in its discretion issue a private or public admonition, warning, reprimand, or requirement that the person obtain additional training or education, or if the Commission determines that the situation merits such action, it may institute formal proceedings and order a formal hearing to be held before it concerning the public censure, removal, or retirement of a person holding an office or position specified [named] in [Paragraph-A-ef] Subsection (6) of this Section, or it may in its discretion request the Supreme Court to appoint an active or retired District Judge or Justice of a Court of ~~[Civil]~~ Appeals, or retired Judge or Justice of the Court of Criminal Appeals or the Supreme Court, as a Master to hear and take evidence in any such matter, and to report thereon to the Commission. The Master shall have all the power of a District Judge in the enforcement of orders pertaining to witnesses, evidence, and procedure. If, after formal hearing, or after considering the record and report of a Master, the Commission finds good cause therefor, it shall issue an order of public censure or it shall recommend to a review tribunal ~~[the--Supreme Court]~~ the removal~~[,]~~ or retirement, as the case may be, of the person in question holding an office or position specified [named] in [Paragraph--A--ef] Subsection (6) of this Section and shall thereupon file with the tribunal ~~[Clerk-of-the-Supreme--Court]~~ the entire record before the Commission.

(9) A tribunal to review the Commission's recommendation for the removal or retirement of a person holding an office or position specified in Subsection (6) of this Section is composed of seven (7) Justices or Judges of the Courts of Appeals who are selected by lot by the Chief Justice of the Supreme Court. Each Court of Appeals shall designate one of its members for inclusion in the list from which the selection is made. Service on the tribunal shall be considered part of the official duties of a judge, and no additional compensation may be paid for such service. The review tribunal ~~[Supreme-Court]~~ shall review the record of the proceedings on the law and facts and in its discretion may, for good cause

shown, permit the introduction of additional evidence. Within 90 days after the date on which the record is filed with the review tribunal, it ~~[and]~~ shall order public censure, retirement or removal, as it finds just and proper, or wholly reject the recommendation. A Justice, Judge, Master, or Magistrate may appeal a decision of the review tribunal to the Supreme Court under the substantial evidence rule. Upon an order for involuntary retirement for disability or an order for removal, the office in question shall become vacant. The review tribunal ~~[Supreme-Court]~~, in an order for involuntary retirement for disability or an order for removal, may prohibit such person from holding judicial office in the future. The rights of an incumbent so retired to retirement benefits shall be the same as if his retirement had been voluntary.

(10) All papers filed with and proceedings before the Commission or a Master shall be confidential, unless otherwise provided by law, and the filing of papers with, and the giving of testimony before~~[7]~~ the Commission or a~~[7]~~ Master ~~[or--the--Supreme Court]~~ shall be privileged, unless otherwise provided by law~~[7 provided-that-upon-being-filed-in--the--Supreme--Court--the--record loses--its--confidential--character]~~. However, the Commission may issue a public statement through its executive director or its Chairman at any time during any of its proceedings under this Section when sources other than the Commission cause notoriety concerning a Judge or the Commission itself and the Commission determines that the best interests of a Judge or of the public will be served by issuing the statement.

(11) The Supreme Court shall by rule provide for the procedure before the Commission, Masters, review tribunal, and the Supreme Court. Such rule shall provide the right of discovery of evidence to a Justice, Judge, Master, or Magistrate after formal proceedings are instituted and shall afford to any person holding an office or position specified ~~[named]~~ in ~~[Paragraph--A--of]~~ Subsection (6) of this Section, against whom a proceeding is instituted to cause his retirement or removal, due process of law for the procedure before the Commission, Masters, review tribunal, and the Supreme Court in the same manner that any person whose property rights are in jeopardy in an adjudicatory proceeding is entitled to due process of law, regardless of whether or not the interest of the person holding an office or position specified ~~[named]~~ in ~~[Paragraph--A--of]~~ Subsection (6) of this Section in remaining in active status is considered to be a right or a privilege. Due process shall include the right to notice, counsel, hearing, confrontation of his accusers, and all such other incidents of due process as are ordinarily available in proceedings whether or not misfeasance is charged, upon proof of which a penalty may be imposed.

(12) No person holding an office specified ~~[named]~~ in ~~[Paragraph--A--of]~~ Subsection (6) of this Section shall sit as a member of the Commission in any proceeding involving his own suspension, discipline, censure, retirement or removal. ~~[A recommendation--of--the--Commission--for--the--suspension, censure, retirement, or removal of a Justice of the Supreme Court--shall--be determined--by--a--tribunal--of--seven--(7)--Court-of-Civil-Appeals Justices--selected-by-let-to-serve-in-place-of-the--Supreme--Court.]~~

SECTION 4. That Article V, Section 1-a, of the Texas Constitution be amended by adding Subsection (14) to read as follows:

(14) The Legislature may promulgate laws in furtherance of this Section that are not inconsistent with its provisions.

SECTION 5. That the following temporary provision be added to the Texas Constitution:

TEMPORARY PROVISION. (a) This temporary provision applies to the constitutional amendment proposed by H.J.R. No. 4, 68th Legislature, Regular Session, 1983, and expires January 1, 1988.

(b) The constitutional amendment takes effect January 1, 1985.

(c) The initial term of the commissioner of class (v) added by amendment in 1977 expired on November 19, 1979. The initial term of the commissioner of class (vi) and (vii) expires on November 19, 1985.

(d) Each person holding office as a member of the Commission on Judicial Conduct on January 1, 1985, continues to hold the office for the term for which he was appointed.

(e) The offices of the first commissioner of class (i) and the first commissioner of class (ii) whose terms expire after January 1, 1985, are abolished on the expiration of the terms.

(f) Changes made in the constitution by this amendment do not apply to investigations and formal proceedings where the investigation of judicial conduct by the commission began before January 1, 1985.

SECTION 6. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 6, 1984. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment relating to the membership of the State Commission on Judicial Conduct and the authority and procedure to discipline active judges, certain retired and former judges, and certain masters and magistrates of the courts."

* * * * *

Austin, Texas
April 27, 1983

Hon. William P. Hobby
President of the Senate

Sir:

We, your Committee on Jurisprudence, to which was referred H.J.R. No. 4, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

Mauzy, Chairman

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 22, 1983

Honorable Bob Bush, Chair
Committee on Judiciary
House of Representatives
Austin, Texas

In Re: Committee Substitute for
House Joint Resolution No. 4

Sir:

In response to your request for a Fiscal Note on the Committee Substitute for House Joint Resolution No. 4 (proposing a constitutional amendment relating to the State Commission on Judicial Conduct and the authority and procedure to discipline active judges, certain retired and former judges, and certain masters and magistrates of the courts) this office has determined the following:

No significant fiscal implication to units of local government is anticipated.

The cost of publication of this resolution is \$59,050.


Jim Oliver
Director

Source: LBB Staff: JO, JH, LG, BL

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 7, 1983

Honorable Bob Bush, Chair
Committee on Judiciary
House of Representatives
Austin, Texas

In Re: House Joint Resolution No. 4
By: Bush

Sir:

In response to your request for a Fiscal Note on House Joint Resolution No. 4 (proposing a constitutional amendment relating to the State Commission on Judicial Conduct and the authority and procedure to discipline active judges, certain retired and former judges, and certain masters and magistrates of the courts) this office has determined the following:

No significant fiscal implication to units of local government is anticipated.

The cost of publication of this resolution is \$59,050.


Jim Oliver
Director

Source: LBB Staff: JO, JH, LG, LV

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

April 4, 1983

Honorable Oscar H. Mauzy, Chairman
Committee on Jurisprudence
Senate Chamber
Austin, Texas

In Re: House Joint Resolution No. 4,
as engrossed
By: Bush

Sir:

In response to your request for a Fiscal Note on House Joint Resolution No. 4, as engrossed (proposing a constitutional amendment relating to the State Commission on Judicial Conduct and the authority and procedure to discipline active judges, certain retired and former judges, and certain masters and magistrates of the courts) this office has determined the following:

No significant fiscal implication to units of local government is anticipated.

The cost of publication of this resolution is \$59,050.


Jim Oliver
Director

Source: LBB Staff: JO, JH, LG, BL

REQUEST FOR LOCAL & UNCONTESTED CALENDAR
PLACEMENT

Hon. Roy Blake, Chairman
Administration Committee

Sir:

Pursuant to S.R. 148, notice is hereby given that HJR 4, by: Bush,
was heard by the Committee on Jurisprudence on 4/27, 1983
and reported out with the recommendation that it be placed on the Local and Uncontested
Calendar.

Mansy
Chairman of the reporting committee

IMPORTANT: THIS FORM MUST BE ATTACHED TO A PRINTED COPY OF THE BILL
OR RESOLUTION, WHICH ALONG WITH 7 ADDITIONAL COPIES OF THE BILL OR
RESOLUTION SHOULD BE DELIVERED TO THE OFFICE OF THE COMMITTEE ON
ADMINISTRATION, ROOM G-27J. PLEASE CALL 5-1134 IF YOU HAVE ANY
QUESTIONS. **DEADLINE FOR SUBMITTING BILLS FOR THE LOCAL CALENDAR IS**
5:00 P.M. MONDAYS.

F

ENROLLED

H.J.R. No. 4

A JOINT RESOLUTION

1 proposing a constitutional amendment relating to the State
2 Commission on Judicial Conduct and the authority and procedure to
3 discipline active judges, certain retired and former judges, and
4 certain masters and magistrates of the courts.

5 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. That Article V, Section 1-a, Subsection (2), of
7 the Texas Constitution be amended to read as follows:

8 (2) The name of the State Judicial Qualifications Commission
9 is changed to the State Commission on Judicial Conduct. The
10 Commission consists of eleven (11) members, to wit: (i) one (1)
11 Justice [~~two-(2)-Justices~~] of a Court [~~Courts~~] of [~~Civil~~] Appeals;
12 (ii) one (1) District Judge; [~~two-(2)-District-Judges,~~] (iii) two
13 (2) members of the State Bar, who have respectively practiced as
14 such for over ten (10) consecutive years next preceding their
15 selection; (iiii) four (4) citizens, at least thirty (30) years of
16 age, not licensed to practice law nor holding any salaried public
17 office or employment; [~~and~~] (v) one (1) Justice of the Peace; (vi)
18 one (1) Judge of a Municipal Court; and, (vii) one (1) Judge of a
19 County Court at Law; provided that no person shall be or remain a
20 member of the Commission, who does not maintain physical residence
21 within this State, or who resides in, or holds a judgeship within
22 or for, the same Supreme Judicial District as another member of the
23 Commission, or who shall have ceased to retain the qualifications
24 above specified for his respective class of membership, except that

1 the Justice of the Peace and the Judges of a Municipal Court and or
 2 a County Court at Law shall be selected at large without regard to
 3 whether they reside or hold [~~he-resides-or-holds~~] a judgeship in
 4 the same Supreme Judicial District as another member of the
 5 Commission. Commissioners of classes (i), [and] (ii), and (vii)
 6 above shall be chosen by the Supreme Court with advice and consent
 7 of the Senate, those of class (iii) by the Board of Directors of
 8 the State Bar under regulations to be prescribed by the Supreme
 9 Court with advice and consent of the Senate, those of class (iiii)
 10 by appointment of the Governor with advice and consent of the
 11 Senate, and the commissioners [~~commissioner~~] of classes [~~class~~] (v)
 12 and (vi) by appointment of the Supreme Court as provided by law,
 13 with the advice and consent of the Senate. [~~from-a--list--of--five~~
 14 ~~{5}--names--submitted--by-the-executive-committee-of-the-Justice-of~~
 15 ~~the-Peace-and-Constables-Association-of-Texas,--with-the-advice--and~~
 16 ~~consent--of--the--Senate.---The-initial-term-of-the-commissioner-of~~
 17 ~~class-{v}-and-the-fourth-commissioner-of-class-{iiii}-added-by-this~~
 18 ~~amendment-terminates-on-November-19,--1979.---Each--person--holding~~
 19 ~~office--as-a-member-of-the-Commission-on-the-effective-date-of-this~~
 20 ~~amendment-continues-to-hold-the-office-for-the-term--for--which--he~~
 21 ~~was-appointed.]~~

22 SECTION 2. That Article V, Section 1-a, Subsection (6), of
 23 the Texas Constitution be amended by amending Paragraph A and
 24 adding Paragraph C to read as follows:

25 A. Any Justice or Judge of the courts established by this
 26 Constitution or [~~Appellate--Courts--and--District--and--Criminal~~
 27 ~~District--Courts,--and--any-County-Judge,--and--any-Judge-of-a-County~~

1 Court-at-Law,--a-Court-of-Domestic-Relations,--a--Juvenile--Court,--a
 2 Probate-Court,--or-a-Corporation-or-Municipal-Court,--and-any-Justice
 3 of--the--Peace,--and--any-Judge-or-presiding-officer-of-any-special
 4 court] created by the Legislature as provided in Section 1, Article
 5 V, of this Constitution, may, subject to the other provisions
 6 hereof, be removed from office for willful or persistent violation
 7 of rules promulgated by the Supreme Court of Texas, incompetence in
 8 performing the duties of the office, willful violation of the Code
 9 of Judicial Conduct, or willful or persistent conduct that[7--which]
 10 is clearly inconsistent with the proper performance of his [said]
 11 duties or casts public discredit upon the judiciary or
 12 administration of justice.[7--or] Any [any] person holding such
 13 office may be disciplined or censured, in lieu of removal from
 14 office, as [under-procedures] provided [for] by this section [the
 15 Legislature]. Any person holding an office specified [named] in
 16 this subsection may be suspended from office with or without pay by
 17 the Commission immediately on being indicted by a State or Federal
 18 grand jury for a felony offense[7--or7] or charged with a
 19 misdemeanor involving official misconduct. On [on] the filing of a
 20 sworn complaint charging a person holding such office with willful
 21 or persistent violation of rules promulgated by the Supreme Court
 22 of Texas, incompetence in performing the duties of the office,
 23 willful violation of the Code of Judicial Conduct, or willful and
 24 persistent conduct that [which] is clearly inconsistent with the
 25 proper performance of his duties or [which] casts public discredit
 26 on the judiciary or on the administration of justice, the
 27 Commission, after giving the person notice and an opportunity to

1 appear and be heard before the Commission, may recommend to the
2 Supreme Court the suspension of such person from office. The
3 Supreme Court, after considering the record of such appearance and
4 the recommendation of the Commission, may suspend the person from
5 office with or without pay, pending final disposition of the
6 charge.

7 C. The law relating to the removal, discipline, suspension,
8 or censure of a Justice or Judge of the courts established by this
9 Constitution or created by the Legislature as provided in this
10 Constitution applies to a master or magistrate appointed as
11 provided by law to serve a trial court of this State and to a
12 retired or former Judge who continues as a judicial officer subject
13 to an assignment to sit on a court of this State. Under the law
14 relating to the removal of an active Justice or Judge, the
15 Commission and the review tribunal may prohibit a retired or former
16 Judge from holding judicial office in the future or from sitting on
17 a court of this State by assignment.

18 SECTION 3. That Article V, Section 1-a, Subsections (8)
19 through (12), of the Texas Constitution be amended to read as
20 follows:

21 (8) After such investigation as it deems necessary, the
22 Commission may in its discretion issue a private or public
23 admonition, warning, reprimand, or requirement that the person
24 obtain additional training or education, or if the Commission
25 determines that the situation merits such action, it may institute
26 formal proceedings and order a formal hearing to be held before it
27 concerning the public censure, removal, or retirement of a person

1 holding an office or position specified [named] in [Paragraph-A-ef]
2 Subsection (6) of this Section, or it may in its discretion request
3 the Supreme Court to appoint an active or retired District Judge or
4 Justice of a Court of [Civil] Appeals, or retired Judge or Justice
5 of the Court of Criminal Appeals or the Supreme Court, as a Master
6 to hear and take evidence in any such matter, and to report thereon
7 to the Commission. The Master shall have all the power of a
8 District Judge in the enforcement of orders pertaining to
9 witnesses, evidence, and procedure. If, after formal hearing, or
10 after considering the record and report of a Master, the Commission
11 finds good cause therefor, it shall issue an order of public
12 censure or it shall recommend to a review tribunal [~~the--Supreme~~
13 ~~Court~~] the removal[7] or retirement, as the case may be, of the
14 person in question holding an office or position specified [named]
15 in [Paragraph--A--ef] Subsection (6) of this Section and shall
16 thereupon file with the tribunal [~~Clerk-of-the-Supreme--Court~~] the
17 entire record before the Commission.

18 (9) A tribunal to review the Commission's recommendation for
19 the removal or retirement of a person holding an office or position
20 specified in Subsection (6) of this Section is composed of seven
21 (7) Justices or Judges of the Courts of Appeals who are selected by
22 lot by the Chief Justice of the Supreme Court. Each Court of
23 Appeals shall designate one of its members for inclusion in the
24 list from which the selection is made. Service on the tribunal
25 shall be considered part of the official duties of a judge, and no
26 additional compensation may be paid for such service. The review
27 tribunal [~~Supreme-Court~~] shall review the record of the proceedings

1 on the law and facts and in its discretion may, for good cause
2 shown, permit the introduction of additional evidence. Within 90
3 days after the date on which the record is filed with the review
4 tribunal, it [and] shall order public censure, retirement or
5 removal, as it finds just and proper, or wholly reject the
6 recommendation. A Justice, Judge, Master, or Magistrate may appeal
7 a decision of the review tribunal to the Supreme Court under the
8 substantial evidence rule. Upon an order for involuntary
9 retirement for disability or an order for removal, the office in
10 question shall become vacant. The review tribunal [~~Supreme-Court~~],
11 in an order for involuntary retirement for disability or an order
12 for removal, may prohibit such person from holding judicial office
13 in the future. The rights of an incumbent so retired to retirement
14 benefits shall be the same as if his retirement had been voluntary.

15 (10) All papers filed with and proceedings before the
16 Commission or a Master shall be confidential, unless otherwise
17 provided by law, and the filing of papers with, and the giving of
18 testimony before[7] the Commission or a[7] Master [~~or--the--Supreme~~
19 ~~Court~~] shall be privileged, unless otherwise provided by law[7]
20 ~~provided-that-upon-being-filed-in--the--Supreme--Court--the--record~~
21 ~~loses--its--confidential--character~~]. However, the Commission may
22 issue a public statement through its executive director or its
23 Chairman at any time during any of its proceedings under this
24 Section when sources other than the Commission cause notoriety
25 concerning a Judge or the Commission itself and the Commission
26 determines that the best interests of a Judge or of the public will
27 be served by issuing the statement.

(11) The Supreme Court shall by rule provide for the procedure before the Commission, Masters, review tribunal, and the Supreme Court. Such rule shall provide the right of discovery of evidence to a Justice, Judge, Master, or Magistrate after formal proceedings are instituted and shall afford to any person holding an office or position specified [named] in [Paragraph--A--ef] Subsection (6) of this Section, against whom a proceeding is instituted to cause his retirement or removal, due process of law for the procedure before the Commission, Masters, review tribunal, and the Supreme Court in the same manner that any person whose property rights are in jeopardy in an adjudicatory proceeding is entitled to due process of law, regardless of whether or not the interest of the person holding an office or position specified [named] in [Paragraph--A--ef] Subsection (6) of this Section in remaining in active status is considered to be a right or a privilege. Due process shall include the right to notice, counsel, hearing, confrontation of his accusers, and all such other incidents of due process as are ordinarily available in proceedings whether or not misfeasance is charged, upon proof of which a penalty may be imposed.

(12) No person holding an office specified [named] in [Paragraph-A-ef] Subsection (6) of this Section shall sit as a member of the Commission in any proceeding involving his own suspension, discipline, censure, retirement or removal. [A ~~recommendation--of--the--Commission--for--the--suspension, censure, retirement, or removal of a Justice of the Supreme Court--shall--be determined--by--a--tribunal--of--seven--(7)--Court of Civil Appeals~~

1 ~~Justices-selected-by-lot-to-serve-in-place-of-the--Supreme--Court-]~~

2 SECTION 4. That Article V, Section 1-a, of the Texas
3 Constitution be amended by adding Subsection (14) to read as
4 follows:

5 (14) The Legislature may promulgate laws in furtherance of
6 this Section that are not inconsistent with its provisions.

7 SECTION 5. That the following temporary provision be added
8 to the Texas Constitution:

9 TEMPORARY PROVISION. (a) This temporary provision applies
10 to the constitutional amendment proposed by H.J.R. No. 4, 68th
11 Legislature, Regular Session, 1983, and expires January 1, 1988.

12 (b) The constitutional amendment takes effect January 1,
13 1985.

14 (c) The initial term of the commissioner of class (v) added
15 by amendment in 1977 expired on November 19, 1979. The initial
16 term of the commissioner of class (vi) and (vii) expires on
17 November 19, 1985.

18 (d) Each person holding office as a member of the Commission
19 on Judicial Conduct on January 1, 1985, continues to hold the
20 office for the term for which he was appointed.

21 (e) The offices of the first commissioner of class (i) and
22 the first commissioner of class (ii) whose terms expire after
23 January 1, 1985, are abolished on the expiration of the terms.

24 (f) Changes made in the constitution by this amendment do
25 not apply to investigations and formal proceedings where the
26 investigation of judicial conduct by the commission began before
27 January 1, 1985.

1 SECTION 6. This proposed constitutional amendment shall be
2 submitted to the voters at an election to be held November 6, 1984.
3 The ballot shall be printed to provide for voting for or against
4 the proposition: "The constitutional amendment relating to the
5 membership of the State Commission on Judicial Conduct and the
6 authority and procedure to discipline active judges, certain
7 retired and former judges, and certain masters and magistrates of
8 the courts."

H.J.R. No. 4

President of the Senate

Speaker of the House

I certify that H.J.R. No. 4 was passed by the House on March 28, 1983, by the following vote: Yeas 141, Nays 1, 1 present, not voting.

Chief Clerk of the House

I certify that H.J.R. No. 4 was passed by the Senate on May 25, 1983, by the following vote: Yeas 24, Nays 0.

Secretary of the Senate

APPROVED: _____
Date

Governor

RECEIVED: _____
Date

Secretary of State

H. J. R. No. 4

By Bush

HOUSE JOINT RESOLUTION

proposing a constitutional amendment relating to the State Commission on Judicial Conduct and the authority and procedure to discipline active judges, certain retired and former judges, and certain masters and magistrates of the courts.

NOV 8 1982

1. Filed with the Chief Clerk.

JAN 27 1983

2. Read first time and referred to Committee on

Judiciary

MAR 16 1983

3. Reported favorably ~~(as amended)~~ ^(as substituted) and sent to Printer at

12:50pm

MAR 23 1983

MAR 23 1983

4. Printed and distributed at

6:13 p.m.

MAR 24 1983

5. Sent to Committee on Calendars at

7:55 AM

MAR 28 1983

6. Read second time ~~(amended)~~ ^{as substituted} and (finally) passed to ~~Third Reading~~ by a Record Vote of 141 yeas, 1 nays, 1 present, not voting.

7. Motion to reconsider and table the vote by which H.J.R. _____ was ordered engrossed prevailed (failed) by (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, _____ present, not voting).

8. Read third time (amended) and finally adopted (failed of adoption) by a Record Vote of _____ yeas, _____ nays, _____ present, not voting.

9. Caption ordered amended to conform to body of resolution.

10. Motion to reconsider and table the vote by which H.J.R. _____ was finally adopted prevailed (failed) by a (Non-Record Vote) Record Vote of _____ yeas, _____ nays, and _____ present, not voting).

MAR 28 1983

11. Ordered Engrossed at

4:25 pm

MAR 29 1983

12. Engrossed.

MAR 29 1983

13. Returned to Chief Clerk at

9:49 am

MAR 29 1983

14. Sent to the Senate.

MAR 29 1983

15. Received from the House

MAR 30 1983

16. Read, referred to Committee on JURISPRUDENCE

APR 27 1983

17. Reported favorably

18. Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

19. Ordered not printed.

MAY 25 1983

20. Regular order of business suspended by

U.C.

~~(a viva voce vote.)~~

_____ yeas, _____ nays.)

21. To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of _____ yeas, _____ nays.

MAY 25 1983

22. Read second time

passed to third reading by:

~~(a viva voce vote.)~~

_____ yeas, _____ nays.)

_____ 23. Caption ordered amended to conform to body of bill.

MAY 25 1983

24. Senate and Constitutional 3-Day Rules suspended by vote of 23 yeas,
1 nays to place bill on third reading and final passage.

MAY 25 1983

25. Read third time and passed by

(~~a viva voce vote.~~)
(29 yeas, 0 nays.)

OTHER ACTION:

OTHER ACTION:

Betty King

Secretary of the Senate

5-25-83

26. Returned to the House.

MAY 25 1983

27. Received from the Senate (~~with amendments.~~)
(~~as substituted~~)

28. House (Concurred) (Refused to Concur) in Senate (Amendments) by a (Non-Record
(Substitute) Vote) (Record Vote of _____ yeas, _____ nays, _____ present,
not voting).

29. Conference Committee Ordered.

30. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record
Vote of _____ yeas, _____ nays, and _____ present, not voting).

MAY 25 1983

31. Ordered Enrolled at

2:41 pm

1983 MAR 29 AM 9:49
HOUSE OF REPRESENTATIVES

1983 MAR 23 PM 6:13
HOUSE OF REPRESENTATIVES